

# Chapter 744

1989 EDITION

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**Note:** Section 80, chapter 701, Oregon Laws 1989, provides:

**Sec. 80.** A person holding a license issued by the Director of the Department of Insurance and Finance under ORS chapter 744 as of the day immediately preceding the operative date of this Act [December 31, 1989] is subject, on and after the operative date of this Act, to ORS chapter 744 as amended by this Act. A license issued under ORS chapter 744 before the operative date of this Act expires on the first anniversary of its issuance occurring on or after the operative date of this Act. A person holding such a license may renew the license as provided in section 14 of this Act [744.008]. The director may stagger the subsequent renewal dates for such licenses [1989 c 701 §80]

## GENERAL PROVISIONS

**744.001 License application.** (1) An applicant for a license as agent, adjuster or insurance consultant shall apply for the license to the director. The applicant 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 preceding five years. The applicant shall include the business address of the principal place of business and the business address of each additional location at which the applicant will transact business under the license.

(b) All assumed business names and other names under which the applicant will engage in business under the license.

(c) 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.

(d) The applicant's fingerprints.

(e) The class or classes of insurance to be transacted under the license. If the application is for a license as an agent, the application shall also include any subclasses of a class of insurance to be transacted under the license.

(f) Any other information that the director requires by rule.

(2) If the applicant for a license under this section is a firm or corporation, the application shall show, in addition, the names of all members, officers and directors. If the application is a corporation, the application 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 the firm or corporation.

(3) Each application shall be accompanied by the applicable fees established by the director. [1989 c 701 §§13, 81g]

**744.002 License categories.** (1) The director may issue a license authorizing a person to act as an insurance agent, an insurance adjuster or an insurance consultant. A person licensed to act in one capacity may also be licensed to act in other capacities if the person meets the appropriate qualifications. For purposes of this chapter, the capacity in which a person is licensed to act constitutes a "license category" or a "category of insurance business."

(2) A license issued under this section shall set forth each license category in which the licensee may engage. For each license category, the license shall also set forth the class or classes of insurance in which the licensee may engage, as provided in:

(a) ORS 744.115, for the license category of agent.

(b) ORS 744.531, for the license category of adjuster.

(c) ORS 744.626, for the license category of insurance consultant.

(3) The director may issue resident and nonresident licenses under this section as follows:

(a) The director may issue a resident license to a person if the person is a resident of this state or, if not a resident of this state, the person has a place of transacting insurance in this state.

(b) The director may issue a nonresident license to a person if the person is not a resident of this state and the person does not have a place of transacting insurance in this state.

(4) The director shall issue a license under this section:

(a) If the applicant has completed and submitted to the director an application for the license and has submitted all applicable fees, including any examination fees, as established by the director with the application;

(b) If the director determines that no ground for denial of the license exists under ORS 744.013; and

(c) If the director determines that the applicant has met the applicable qualifications and requirements for each license category, and for each class of insurance for which application is made. [1989 c.701 §2, 81e]

**744.003 Amendment to license.** (1) The director may add a category of insurance business to a license upon application by the licensee for amendment of the license.

(2) The director may add a class or classes of insurance to a license upon application by the licensee for amendment of the license.

(3) The director may require that applications under this section be made in the same manner as applications for the initial license, or the director may establish other application procedures. [1989 c.701 §3]

**744.004 Firm or corporation license.** (1) The director may issue or amend a firm or corporation license under ORS 744.002 only if the firm or corporation, for each category of insurance business that the firm or corporation applies for on its license, employs an individual whose license under ORS 744.002 authorizes the individual to engage in that category of insurance business.

(2) When a firm or corporation applies for a license or applies to amend the license, the director may issue or amend the license only if the firm or corporation, for each class of insurance that the firm applies to transact, employs an individual whose license under ORS 744.002 authorizes the individual to transact that class of insurance. [1989 c.701 §4]

744.005 [1967 c 359 §525; repealed by 1989 c 701-§81]

**744.007 Time of expiration of license; renewal fee.** (1) A license issued under ORS 744.002 expires on its expiration date unless it is renewed on or before its expiration date.

(2) A license expires on the last day of the month in which the first anniversary of the initial issuance date of the license occurs, unless the director designates another date. Thereafter, the license shall expire on the second anniversary following each renewal.

(3) When a category of insurance business is added to a license, the expiration date for the license shall be the last day of the month in which the second anniversary of the issuance date of the amended license occurs, unless the director establishes another expiration date.

(4) The fee for renewal of a license shall be the fee established by the director, which shall include the fee established for each category of insurance business on the license.

(5) The director by rule may establish procedures for renewal of licenses.

(6) A suspended license is subject to renewal and to all requirements applicable to renewal if the license expires during the suspension period. [1989 c 701 §§5, 81f]

**744.008 Renewal of license.** A licensee may renew a license subject to the following requirements:

(1) The licensee must pay the applicable fee established by the director.

(2) The licensee must satisfy all applicable continuing education requirements and all other applicable conditions and requirements specified by statute.

(3) If the licensee holds a nonresident license, the licensee must submit proof to the director, with respect to each category of insurance business and class of insurance set forth on the license, that the licensee continues to hold a valid license or other evidence of authority issued by the state of residence of the licensee for the same category of insurance business.

(4) The licensee must satisfy any other requirements established by the director by rule. [1989 c.701 §§14, 81h]

**744.009 Renewal of expired license.** (1) The director may renew an expired license of a person upon application if the license expired within two years prior to the application and if:

(a) The license was not suspended or revoked by the director, or not renewed, on any ground under ORS 744.013;

(b) The director is satisfied, by examination or otherwise, that the person is knowledgeable about the portions of the Insurance Code applicable to the license;

(c) The person pays twice the amount of the regular renewal fee; and

(d) The person satisfies all requirements for renewal.

(2) A person who does not renew an expired license as provided in this section may obtain a license only if the person applies and qualifies for and is issued the license in the same manner as a person who initially applies for the license. [1989 c.701 §6]

744.010 [Repealed by 1967 c.359 §704]

**744.011 Director's authority to investigate licensee.** The expiration of a license or the voluntary surrender of a license by a licensee shall not deprive the director of jurisdiction to proceed with any investigation of, or any action or disciplinary proceedings against, the licensee or to revise or render void an order suspending or revoking the license. [1989 c 701 §11]

744.012 [1979 c.501 §1; 1989 c.701 §41; renumbered 744 240 in 1989]

**744.013 Disciplinary actions against applicant or licensee.** (1) If the director finds with respect to a licensee or an applicant for a license that one or more of the grounds set forth in subsection (2) of this

section exist, the director may take the following disciplinary actions:

(a) The director may refuse to renew or may suspend or revoke a license issued under ORS 744.002 or the authority under a license to engage in any category of insurance business or any class of insurance.

(b) The director may refuse to issue a license under ORS 744.002 or refuse to grant authority under a license to engage in any category of insurance business or any class of insurance.

(2) The director may take any disciplinary action under subsection (1) of this section on one or more of the following grounds:

(a) Incompetence or untrustworthiness of the applicant or licensee.

(b) Falsification by the applicant or licensee of the application for the license or an amendment thereto, or engagement in any dishonest act in relation to the application or examination therefor.

(c) Violation of or noncompliance with any applicable provision of the Insurance Code or any 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 the conviction shall be conclusive evidence of the conviction.

(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.

(h) Error by the director in issuing or renewing a license.

(i) Failure to pay a civil penalty assessed by the director that has become final by operation of law or upon appeal.

(j) Failure to pay any fee or charge to the director.

(k) Use of the license principally to effect insurance on property or against liability of the applicant or licensee, or to evade the provisions of ORS chapter 746.

(L) Failure to comply with any provision of ORS 744.225.

(m) Cancellation, revocation, suspension or refusal to renew by any state of a license or other evidence of authority to act as an agent, adjuster or insurance consultant. The record of the cancellation, revocation, suspension or refusal to renew shall be conclusive evidence of the action taken.

(n) Cancellation, revocation, suspension or refusal to renew by any state or federal agency of the authority to practice law or to practice under any other regulatory authority if the cancellation, revocation, suspension or refusal to renew was related to the business of an agent, adjuster or insurance consultant or if dishonesty, fraud or deception was involved. The record of the cancellation, revocation, suspension or refusal to renew shall be conclusive evidence of the action taken.

(o) Failure to comply with continuing education requirements applicable to the license or any category of insurance authorized under the license, unless the director has waived the requirements.

(p) Dishonesty, fraud or misrepresentation not related to the business of an agent, adjuster or insurance consultant.

(3) The director may refuse to issue or renew or may revoke or suspend the license of a firm or corporation or may take any such action with respect to any authority applied for by or granted to the firm or corporation to engage under the license in any category of insurance business or class of insurance if the director finds that any ground set forth in subsection (2) of this section exists:

(a) With respect to any individual licensee employed by or under contract with the firm or corporation.

(b) With respect to a director or officer of the firm or corporation. [Formerly 744.255]

**744.014 Condition of probation on license or category of insurance business; disciplinary action during probationary period.** (1) The director may place a condition of probation on a license or on a category of insurance business authorized by a license or on a class of insurance if any ground for disciplinary action under ORS 744.013 exists, as follows:

(a) When the license is initially issued.

(b) When the license is renewed, amended or reinstated, or when a new license is issued for the purpose of adding a category of insurance business or class of insurance.

(c) At any time during the effective period of the license.

(2) During a probationary period under this section, the director may take any action authorized under ORS 744.013.

(3) A license applicant or licensee has the same right to a hearing on the placing of a condition of probation as the license applicant or licensee has with respect to any action taken by the director under ORS 744.013. [Formerly 744.260]

744.015 [1967 c.359 §526; 1989 c.701 §22; renumbered 744.054 in 1989]

**744.016 Return of license to director.**

(1) All licenses shall be at all times the property of this state. Not later than the 10th day after the suspension or revocation of a license, or if otherwise requested by the director, 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. [Formerly 744.265]

744.017 [1971 c.231 §8, 1989 c.701 §42; renumbered 744.245 in 1989]

**744.018 Reinstatement of license; modification of suspension.** (1) The director may reinstate a revoked license, any revoked category of insurance business or any revoked class of insurance. The director may grant reinstatement upon fulfillment by the former holder of the license of conditions set by the director.

(2) The director may modify the suspension of a license, a category of insurance business or a class of insurance and reinstate the license, category or class:

(a) At a time certain; or

(b) When the person subject to the suspension fulfills conditions set by the director for reinstatement. [1989 c.701 §12]

744.020 [Repealed by 1967 c.359 §704]

**744.022 Authorized activities.** (1) A firm or corporate licensee may engage in a category of insurance business or a class of insurance authorized on its license only through an individual licensee who is authorized to engage in insurance business in that same category or class.

(2) An individual licensee who is employed by or under contract with a firm or corporate licensee may engage in insurance business only to the extent authorized by the license of the individual. [1989 c.701 §15]

**744.024 Places of business for resident licensee; records.** (1) Each resident licensee shall maintain in this state a place of busi-

ness in which the licensee principally engages in insurance business under the license.

(2) The principal place of business under subsection (1) of this section of an agent and an insurance consultant must be accessible to the public.

(3) A licensee shall keep at the place of business of the licensee the usual and customary records pertaining to the business under the license. All such records as to any particular transactions shall be kept available and open to the inspection of the director during business hours. An agent shall keep records of insurance transacted by the agent under the license for three years following expiration of the policy. An insurance consultant shall keep records of a particular transaction by the insurance consultant for three years following the conclusion of the transaction.

(4) This section does not prohibit maintenance of a place of business under a license in the licensee's place of residence in this state. [1989 c.701 §16]

744.025 [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, 1989 c.701 §23; renumbered 744.057 in 1989]

**744.026 Place of business for nonresident licensee; records.** A nonresident licensee shall keep at the principal place of business of the licensee the usual and customary records pertaining to the business under the nonresident license. All such records as to any particular transaction shall be kept available and open to the inspection of the director during business hours. A nonresident agent shall keep records of insurance transacted by the agent under the license for three years following expiration of the policy. A nonresident insurance consultant shall keep records of a particular transaction by the nonresident insurance consultant for three years following conclusion of the transaction. [1989 c.701 §17]

**744.028 Notice of change of address or telephone number.** (1) Not later than the 30th day after a change of address or telephone number of the principal place of business or the residence of a licensee, or any other location at which the licensee transacts business under the license, the licensee shall notify the director of the change. The licensee also shall so notify the director not later than the 30th day after the licensee opens or closes a location at which the licensee transacts business under the license.

(2) Not later than the 30th day after a change in or deletion or addition of an assumed business name under which a licensee transacts business under a license as an agent, adjuster or insurance consultant, the

licensee shall notify the director of the change. [1989 c.701 §18]

744.030 [Amended by 1965 c.610 §12; repealed by 1967 c.359 §704]

**744.031 Notice of personnel changes from firm or corporate licensee to director.** (1) Not later than the 30th day after the authority of an individual licensee to act for a firm or corporate licensee has commenced or terminated, the firm or corporate licensee shall notify the director of the commencement or termination.

(2) A firm or corporate licensee shall notify the director annually of all changes in its officers and directors during the immediately previous calendar year. If the licensee is a corporation, the licensee shall include in the notice any changes in its stockholders who own, directly or indirectly, more than 10 percent of any class of any equity security of the licensee.

(3) The director may establish by rule a different period within which a firm or corporate licensee must notify the director under subsection (1) or (2) of this section. [1989 c.701 §19]

**744.033 Forms.** Any application or notice to the director under this chapter must be made on a form provided by the director. [1989 c.701 §20]

744.035 [1967 c.359 §528, 1985 c.697 §18; repealed by 1989 c.701 §81]

**744.037 Fees; refunds.** A fee paid under this chapter is not refundable unless the director provides otherwise by rule. [1989 c.701 §7]

744.040 [Repealed by 1967 c.359 §704]

744.045 [1967 c.359 §529, 1983 c.76 §2; 1987 c.916 §8, 1989 c.331 §33, 1989 c.701 §25, renumbered 744.066 in 1989]

744.050 [Repealed by 1953 c.93 §2]

## AGENTS

**744.051 Requirements for transacting insurance as agent; permissible activities; rules.** (1) A person shall not transact insurance as an agent in this state with respect to a domestic risk unless the person satisfies the following requirements:

(a) The person must hold a valid license or a temporary license issued by the director that authorizes the person to transact insurance as an agent.

(b) The person must be appointed by an insurer under ORS 744.155 to act as an agent for the insurer, unless exempted by the director from this requirement under subsection (3) of this section.

(2) An agent may transact insurance as an agent:

(a) Only with respect to those classes of insurance indorsed on the license of the agent; and

(b) Only with respect to an insurer that has appointed the agent under ORS 744.155, unless exempted under subsection (3) of this section from this requirement.

(3) The director by rule may establish conditions and limitations:

(a) Under which an agent may transact insurance that is otherwise authorized by the license of the agent with an insurer with whom the agent does not hold an appointment.

(b) Under which a person may transact insurance on a domestic risk without a license as an agent in this state.

(4) The provisions of this section are subject to exemptions stated in ORS 744.057. [1989 c.701 §21]

**744.054 Prohibition on appointing unlicensed person to be agent.** (1) An insurer or agent, with respect to domestic risks, shall not authorize or appoint a person to transact insurance as an agent for the insurer or agent if the person, while so transacting insurance, does not hold a valid license as agent issued by the director.

(2) The provisions of this section are subject to exemptions stated in ORS 744.057. [Formerly 744.015]

744.055 [1967 c.359 §530, 1971 c.231 §27; 1987 c.222 §1, 1989 c.701 §27; renumbered 744.071 in 1989]

**744.057 Exemptions from agent licensing requirements.** The following persons are exempt from the provisions of ORS 744.051 and ORS 744.054:

(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) A person engaging in 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) A person engaging in the lawful transaction of home protection insurance if the person is a real estate licensee as defined by ORS 696.010, and if the transaction of this insurance by the person 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. [Formerly 744.025]

744.060 [Repealed by 1953 c.93 §2]

**744.061 Banking institution as agent.**

Nothing in the Insurance Code shall be construed to limit or prohibit the licensing 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, except for title insurance. [1989 c.701 §24]

744.065 [1967 c.359 §531, 1969 c.336 §14, 1973 c.89 §1, 1983 c.76 §3, 1989 c.413 §10, repealed by 1989 c.701 §81]

**744.066 Resident agent license.** An applicant for a license as a resident agent shall apply for the license under ORS 744.001 and must meet 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 take and pass a written examination specified by the director under ORS 744.075 with respect to the authority to transact the class or classes of insurance for which the applicant has applied. The requirement of an examination does not apply to an applicant that is a firm or corporation.

(3) If the applicant is a firm or corporation, the applicant must have an office in this state that employs or is managed by an individual licensed as an agent for the class or each of the classes of insurance for which the firm or corporation has applied.

(4) The applicant must satisfy all other requirements established by the director by rule. [Formerly 744.045]

**744.069 Nonresident agent license.** (1)

A person who resides in another state or a province of Canada and is licensed in that state or province as an agent or insurance broker may be licensed to transact insurance as a nonresident agent in this state as provided in this section if the state or province in which the person resides gives the same privilege to a resident agent of this state. A person who is licensed by this state to transact insurance as a nonresident agent may negotiate any policy of insurance upon domestic risks to the same extent and upon the same terms as provided by the other state or province for residents of this state transacting a like business in such other state or province.

(2) An applicant for a license as a nonresident agent shall:

(a) Meet the qualifications under subsection (3) of this section;

(b) Apply for the license under ORS 744.001; and

(c) File with the director in writing an appointment of the director to be the attorney of the applicant upon whom all legal process in any action or proceeding against the applicant may be served. In the appointment, the applicant shall agree that any lawful process against the applicant that is served upon the director shall be of the same legal force and validity as if served upon the applicant, and that the authority shall continue in force so long as any liability remains outstanding in this state. An appointment under this paragraph becomes effective on the date that the director issues the license to the applicant.

(3) The following qualifications apply to a person applying for a license as a nonresident agent:

(a) The applicant must take and pass a written examination specified by the director under ORS 744.075 with respect to the authority to transact the class or classes of insurance for which the applicant has applied. The requirement of an examination does not apply to an applicant that is a firm or corporation.

(b) The applicant must hold a currently valid license as an agent or insurance broker in the state or province in which the applicant resides.

(c) The applicant must satisfy any other qualifications established by the director by rule.

(4) Any of the requirements under subsection (3) of this section are subject to waiver with respect to an applicant if the director has entered a reciprocal agreement as provided in ORS 744.071 with the state or province in which the applicant resides. [1989 c.701 §26]

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

**744.071 Reciprocal agreements.** The director may enter into a reciprocal agreement with the appropriate official of any other state or a province of Canada that waives any or all of the requirements for issuance of a license to transact insurance to any nonresident applicant who resides in the other state or province if:

(1) A written examination is required of applicants for an agent's license in the other state or province;

(2) The appropriate official of the other state or province certifies that the applicant holds a valid license as an agent or insurance broker in the other state or province and either passed the written examination or was the holder of an agent's or insurance

broker's license prior to the time the written examination was first required; and

(3) In the other state or province, 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 section. [Formerly 744.055]

**744.075 Examination.** (1) The director shall give an examination to each applicant for a license as an agent. The examination must test the applicant's knowledge of the class or classes of insurance or subclasses of any class to be transacted by the applicant, and the applicant's knowledge of the legal responsibilities of an agent.

(2) The director shall determine rules of procedure for the conduct of examinations. [1967 c.359 §532, 1983 c 76 §4, 1989 c 701 §28]

744.080 [Repealed by 1967 c 359 §704]

**744.085 Exemption from examination.** An examination for issuance of a license to transact insurance as an agent shall not be required of any of the following applicants:

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

(2) Transportation ticket agents of common carriers applying for a license authorizing them, as provided in ORS 744.115, to solicit and sell, as incidental to their duties as transportation ticket agents, only:

(a) Travel ticket health insurance policies;

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

(c) Trip cancellation insurance policies.

(3) Any applicant for a license authorizing the applicant to transact general lines insurance, 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 license authorizing the applicant to transact life or health insurance, or both, 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.

(4) Any applicant for a license authorizing the applicant to transact legal services insurance, unless the director determines that examinations are necessary for the pro-

tection of the insurance-buying public and establishes a rule to that effect.

(5) Any applicant for a license authorizing the applicant to transact credit life insurance, credit health insurance, livestock insurance, mortgage insurance or motor vehicle physical damage insurance, or for any combination of such classes permitted by the Insurance Code.

(6) Any applicant for a license authorizing the applicant to transact title insurance.

(7) Any applicant for a license authorizing the applicant to transact lender's property insurance.

(8) 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.

(9) A firm or corporation applying for a license authorizing it to transact insurance as an agent. [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; 1989 c.701 §29]

744.090 [Amended by 1967 c.359 §370, renumbered 743.111]

744.095 [1967 c.359 §534, repealed by 1989 c.701 §81]

744.100 [Repealed by 1967 c.359 §704]

744.105 [1967 c.359 §535, 1971 c.231 §29, repealed by 1989 c.701 §81]

744.110 [Repealed by 1967 c.359 §704]

**744.115 Classes of insurance authorized by license.** (1) When the director issues a license authorizing a person to transact insurance as an agent, the director shall indorse on the license the class or classes of insurance or subclasses thereof, as described in this section, that the person is authorized to transact as an agent. The classes and subclasses of insurance are as follows:

(a) General lines insurance. Under this class, an agent may transact casualty, property, marine and transportation and surety insurance.

(b) Life insurance.

(c) Health insurance, whether provided by an insurer or a health care service contractor as defined in ORS 750.005.

(d) Surplus line insurance. Under this class, an agent may place insurance with eligible surplus line insurers as provided in ORS 735.400 to 735.495.

(e) Livestock insurance. Under this class, an agent may transact insurance against loss of, damage to or death of domestic animals.

(f) Mortgage insurance.

(g) Motor vehicle physical damage insurance. Under this class, an agent may transact insurance against only the loss of or damage to any motor vehicle designed primarily for use upon a highway.

(h) Travel ticket health insurance. Under this class, an agent may transact personal accident insurance covering the risks of travel. This indorsement may be made only on the license of an agent who is a full-time salaried employee of a common carrier or a full-time salaried employee or owner of a transportation ticket agency, either of whom is engaged in the sale of transportation tickets, or to a full-time salaried employee of an agent holding a license authorizing the agent to transact health insurance. The indorsement 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. A resident agent authorized under this paragraph to transact travel health insurance may obtain a further indorsement to transact such insurance with vending machines as authorized under ORS 744.235.

(i) Baggage insurance and trip cancellation and trip interruption insurance. Under this class, an agent may transact insurance of personal effects in connection with travel and for reimbursement of trip travel expense resulting from some emergency in connection with travel. This indorsement may be made only on the license of an agent who is a full-time salaried employee of a common carrier or a full-time salaried employee or owner of a transportation ticket agency, either of whom is engaged in the sale or handling of transportation of personal effects as baggage of travelers, or to a full-time salaried employee of an agent holding a license authorizing the agent to transact general lines insurance.

(j) Credit life insurance.

(k) Credit health insurance.

(L) Credit insurance. Under this class, an agent may transact insurance against loss or damage from failure of debtors to pay their obligations to the insured. This class does not include mortgage insurance.

(m) Legal services insurance. Under this class, an agent may contract for services provided by a legal services contractor as defined in ORS 750.300, or transact 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. This indorsement may be made only on the license of an agent who is

authorized to transact one or more of the classes of insurance set forth in paragraphs (b) and (c) of this subsection.

(n) Title insurance.

(o) Lender's property insurance. Under this class, an agent may transact 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 that indorsements under this section state 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, 1989 c.331 §25; 1989 c.701 §30]

**744.119 Conditions for renewal of license.** (1) As a condition of or in connection with the renewal of a license as an agent the director may require the agent to file information with the director relative to use made of the license during the previous year or two years, and especially showing whether the license has been used principally for the writing of personal or controlled insurance, as defined in ORS 746.065.

(2) The director may require an agent, as a condition for renewal of the license of the agent, to fulfill any or all of the requirements then applicable to the original issuance of the license.

(3) The director by rule may establish requirements for continuing education that each resident agent must satisfy as a condition for renewing the license as a resident agent. 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 (2), (5), (6) or (7); 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. [Formerly 744.205]

744.120 [Repealed by 1967 c.359 §704]

**744.123 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, if

no other agent in the agency is authorized to represent the 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 the person, enabling the person to represent the insurer as agent. The person or insurer shall pay the applicable fee established by the director.

(2) Each temporary license shall authorize the licensee to act as agent for the appointing insurer for a period of not more than 90 days, subject to extension by the director in the discretion of the director for an additional period of not more than 90 days. The license shall expire at the end of the period for which it was issued, and any extension thereof. [Formerly 744.195]

744.125 [1959 c.367 §1; 1967 c.359 §501; renumbered 743.666]

**744.127 Written contract of appointment.** (1) An agent shall not transact insurance for an insurer unless the agent has entered a written contract of appointment with the insurer.

(2) An agent may transact insurance for an insurer under a written contract of appointment with the insurer on and after the effective date of the appointment. An appointment under a written contract becomes effective on the date specified in the contract, but the specified date may not be earlier than the date on which the contract of appointment is entered by the insurer and the agent. [1989 c.701 §33]

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

744.135 [1967 c.359 §537, 1973 c.89 §2, repealed by 1989 c.701 §81]

744.140 [Repealed by 1967 c.359 §704]

**744.145 Number of appointments under one agent's license.** An agent may represent as agent under one license as many insurers as may appoint the agent in accordance with ORS 744.155. [1967 c.359 §538; 1989 c.701 §35]

744.150 [Repealed by 1967 c.359 §704]

**744.155 Appointment of agents.** (1) Each insurer appointing an agent in this state shall file written notice of the appointment with the director not later than the 30th day after the effective date of the appointment. The notice shall include 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. The insurer also shall pay the applicable fee established by the director.

(2) If the appointment includes any class of insurance, other than surety insurance, that is transacted under the general lines insurance class 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 or unless the appointment is not renewed under subsection (5) of this section.

(5) An insurer shall renew the appointment of an agent every two years after the date of appointment or according to a renewal cycle of a lesser period established by the director. An insurer shall pay the applicable fee established by the director for each agent holding an appointment on the renewal date assigned the agents of such insurer.

(6) The director may stagger the dates for renewal of appointments of agents by various insurers. The director shall notify each such insurer in writing of the date being assigned its agents and make appropriate adjustment in the fee for renewal of appointment. [1967 c.359 §539, 1971 c.231 §31; 1975 c.769 §5, 1989 c.413 §11, 1989 c.701 §§34, 81c]

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.**

(1) An insurer may terminate an agency appointment at any time as provided in this section. Termination shall be without prejudice to the contract rights, if any, of the agent so terminated. The insurer shall give written notice of the termination and the

date thereof to the agent at least 90 days prior to the effective date of the termination. The notice must specify the reasons for the termination. The insurer shall deliver the notice either in person or by mail at the address last provided by the agent to the insurer. The agent shall not have a cause of action against the insurer as a result of any statement in the notice unless the statement is false and the insurer knew the statement was false when made. The insurer shall also notify the director of the termination not later than the 30th day after the effective date of the termination. The director may require of the insurer reasonable proof that the insurer has given such notice to the agent.

(2) An insurer may terminate an agency appointment without giving the notice required by subsection (1) of this section on any of the grounds specified in this subsection. The insurer shall notify the director of any termination under this subsection and the date thereof not later than the 30th day after the effective date of the termination and shall notify the agent when reasonably possible. The director may require the insurer to give proof that the insurer has notified the agent. The following are grounds for termination under this subsection:

(a) The agent's insurance license is denied, restricted, revoked, suspended or canceled by any public authority;

(b) The agent's business is sold, transferred or merged and the insurer has not appointed the successor;

(c) The agent is insolvent or fails to remit balances to the insurer in accordance with the agreement;

(d) The agent commits fraud or engages in intentional misconduct;

(e) The insurer amends its certificate of authority in order to discontinue a line of insurance;

(f) The insurer ceases selling insurance in this state; or

(g) The insurer and agent mutually agree to terminate the agency appointment.

(3) An agent may terminate an agency appointment at any time, but the termination shall be without prejudice to the contract rights, if any, of the appointing insurer. The agent shall give written notice of the termination and the date thereof to the director not later than the 30th day after the effective date of the termination, and to the insurer. The director may require reasonable proof from the agent that the agent has given such notice to the insurer. [1967 c.359 §541, 1975 c.769 §6; 1989 c.692 §§1, 2; 1989 c.701 §36]

744.180 [Repealed by 1967 c.359 §704]

**744.182 Change of circumstances of nonresident agent.** (1) A nonresident agent shall not transact insurance as an agent in this state when the agent no longer holds a valid license as an agent or insurance broker in the state or province in which the agent resides. If the license of the agent in the state in which the agent resides is reinstated, and if the nonresident agent license has not expired, the agent may apply to the director for reinstatement of the nonresident agent license.

(2) A nonresident agent who establishes residence in this state or a place of business in this state in which the agent transacts insurance shall not transact insurance in this state under the nonresident license following the 30th day after the agent establishes the residence or place of business. An agent under this subsection may thereafter transact insurance in this state only under a license as a resident agent.

(3) A nonresident agent who changes residence to another state other than this state or to a province must apply to the director for a license as a nonresident agent as if the agent were initially applying for such a license. [1989 c.701 §37]

744.185 [1967 c.359 §542; repealed by 1989 c.701 §81]

744.190 [Repealed by 1967 c.359 §704]

744.195 [1967 c.359 §543, 1989 c.413 §12, 1989 c.701 §§32, 81d, renumbered 744.123 in 1989]

744.200 [Repealed by 1967 c.359 §704]

744.205 [1967 c.359 §544; 1977 c.820 §2; 1979 c.501 §6; 1981 c.817 §3; 1983 c.76 §6, 1989 c.701 §31, renumbered 744.119 in 1989]

744.215 [1967 c.359 §545; 1989 c.413 §13; 1989 c.701 §40, renumbered 744.235 in 1989]

**744.225 Trust account for premium funds; commingling; exceptions.** (1) All premium funds received by an agent 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 shall not commingle or otherwise combine premiums with any other moneys.

(3) An agent may commingle with premium funds in the trust account required by subsection (1) of this section any additional funds the agent 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) This section does not apply to:

(a) 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.

(b) Any class of agents that the director designates by rule. The director may exempt a class of agent from this section if the director determines that the requirements of this section are unduly burdensome to the agents in relation to the public good served. [1987 c.569 §2; 1989 c.701 §38]

**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.

**744.227 Certificate of deposit in lieu of trust account.** (1) In lieu of the trust account required by ORS 744.225, an agent may keep a certificate of deposit from an institution insured by the Federal Government or an instrumentality thereof if the agent has an average monthly balance of premium funds received and held for the last 12 months of at least \$2 million. An agent who keeps a certificate of deposit shall have satisfactory evidence of the certificate available at all times for inspection by the director.

(2) A certificate of deposit authorized under subsection (1) of this section shall be for an amount at least equal to the average monthly balance of premium funds received and held by the agent for the last 12 months. Nothing in this subsection requires that the required amount of the certificate of deposit be calculated, or the amount changed, more often than once a month.

(3) The director may adopt rules specifying what constitutes satisfactory evidence for purposes of subsection (1) of this section.

(4) Authorization to use a certificate of deposit may be revoked by the director at any time upon a determination that the agent has failed to comply with the provisions of this section or rules adopted under subsection (3) of this section. Upon revocation, the agent shall comply immediately with the provisions of ORS 744.225. [1989 c.680 §2]

**744.231 Countersigning by resident agent.** A nonresident agent or insurance broker from a jurisdiction that requires countersigning of a policy sold in that jurisdiction by an Oregon resident agent shall have any policy sold to an Oregon resident countersigned by an Oregon agent. [1989 c.701 §39]

**744.235 Insurance vending machines.**

(1) A 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 established by the director 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. [Formerly 744 215]

**744.240 Applicability of Insurance Code to title insurance agents.** The Legislative Assembly finds that it is in the interest of the insurance-buying public that agents authorized to transact title insurance be subject to the Insurance Code. It is declared to be the intent of the Legislative Assembly that the Insurance Code shall apply to such agents only to the extent necessary for the regulation of title insurance ratemaking and unfair trade practices. [Formerly 744 012]

**744.245 Filing agents compensation agreements; filing not public record.** 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 or a "public record" as defined in ORS 192.410. [Formerly 744 017]

744.255 [1967 c.359 §546, 1969 c.336 §15; 1983 c.76 §7; 1985 c.697 §15, 1987 c.774 §141; 1989 c.701 §8; renumbered 744.013 in 1989]

744.260 [1971 c.231 §9, 1983 c.76 §8, 1985 c.697 §16; 1989 c.701 §9; renumbered 744 014 in 1989]

744.265 [1967 c.359 §547; 1983 c.76 §9, 1989 c.701 §10; renumbered 744.016 in 1989]

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.

Except as provided in ORS 744.515, a person shall not act or attempt to act as an adjuster of losses claimed under insurance policies

unless the person holds a valid license issued by the director that authorizes the person to act as an adjuster. A license under this section 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. [Formerly 736.485, 1983 c.76 §10; 1987 c.774 §139, 1989 c.413 §14; 1989 c.701 §43]

744.510 [Repealed by 1967 c.359 §704]

**744.515 Exemptions from adjuster licensing requirement.** (1) A licensed resident agent or salaried employee or officer of an authorized insurer may adjust and settle losses for the insurer that the agent, employee 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 the provisions of this chapter governing adjusters.

(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; 1989 c.701 §44]

744.520 [Repealed by 1967 c.359 §704]

**744.525 Adjuster qualifications.** An applicant for a license as a resident adjuster shall apply for the license as provided in ORS 744.001 and must meet the following requirements:

(1) If the applicant is an individual, the applicant must establish a residence or place of transacting insurance business in this state prior to filing an application. If the applicant is a firm or corporation, the applicant must establish an office in this state that employs an individual licensed under ORS 744.002 as an adjuster.

(2) If the applicant is an individual, the applicant must pass any examination required by ORS 744.535.

(3) The applicant must satisfy all other requirements established by the director by rule. [1967 c.359 §561; 1971 c.231 §34; 1973 c.827 §81; 1983 c.76 §12; 1989 c.701 §45]

**744.528 Nonresident adjuster license.**

(1) A person who resides in another state or a province of Canada and is licensed in that state or province as an adjuster may be li-

censed to act as a nonresident adjuster in this state as provided in this section if the state or province in which the person resides gives the same privilege to a resident agent of this state.

(2) An applicant for a license to act as a nonresident adjuster must do the following:

(a) Apply for the license on forms designed and furnished by the director as provided in ORS 744.001.

(b) Take and pass an examination required by ORS 744.535, unless exempted under ORS 744.535. [1989 c.701 §46]

744.530 [1957 c.247 §1; repealed by 1967 c.359 §704]

**744.531 Classes of insurance for adjusters.** When the director issues a license authorizing a person to act as an adjuster, the director shall indorse on the license the class or classes of insurance described in this section with respect to which the person is authorized to adjust losses. The classes of insurance are as follows:

(1) General lines insurance. Under this class, an adjuster may adjust losses with respect to casualty, property, marine and transportation and surety insurance.

(2) Health insurance, whether provided by an insurer or a health care service contractor as defined in ORS 750.005.

(3) Any class of insurance designated by the director by rule. [1989 c.701 §47]

**Note:** 744.531 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.

**744.535 Adjuster licensing examination.** (1) The director shall give an examination to each applicant for a license as an adjuster. The examination must test the qualifications and competence of the applicant and the knowledge of the applicant with respect to the classes of insurance that may be dealt with under the license and with respect to the duties and responsibilities of an adjuster under the laws of this state.

(2) The requirement of an examination under subsection (1) of this section shall not apply to

an applicant who is licensed as an independent adjuster in another state that licenses adjusters of this state without examination.

(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. [1967 c.359 §562, 1989 c.413 §15; 1989 c.701 §48]

**744.538 Change of circumstance of nonresident adjuster.** (1) A nonresident adjuster shall not act as an adjuster in this state when the adjuster no longer holds a valid license as an adjuster in the state or province in which the adjuster resides. If the license of the adjuster in the state in which the adjuster resides is reinstated, and if the nonresident adjuster's license has not expired, the adjuster may apply to the director for reinstatement of the nonresident license.

(2) A nonresident adjuster who establishes residence in this state or a place of business in this state in which the adjuster transacts business as an adjuster shall not transact such business in this state under the nonresident license following the 30th day after the adjuster establishes the residence or place of business. An adjuster under this subsection may thereafter act as an adjuster in this state only under a license to act as a resident adjuster.

(3) A nonresident adjuster who changes residence to another state other than this state or to a province must apply to the director for a license as a nonresident adjuster as if the adjuster were initially applying for such a license. [1989 c 701 §49]

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

**744.541 Adjustment of claim under policy issued by unauthorized insurer.** An adjuster may adjust a loss claimed under an insurance policy issued by an unauthorized insurer other than a surplus line insurer. The adjuster shall notify the director thereof not later than the 20th day after adjusting the loss. [1989 c 701 §50]

744.545 [1967 c 359 §563, 1983 c.76 §13, 1989 c.413 §16, repealed by 1989 c.701 §81]

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 determines necessary and shall be in lieu of the license and fee requirements otherwise applicable.

(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 in-

urance 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 of the adjuster 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, 1989 c.701 §51]

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, except 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; 1989 c 701 §52]

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]

## INSURANCE CONSULTANTS

**744.605 Insurance consultant's license required.** A person shall not act as an insurance consultant unless the person holds a valid license issued by the director that authorizes the person to act as an insurance consultant. For purposes of this section, a person acts as an insurance consultant if:

(1) The person purports or offers to engage in any of the activities 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) The person, in exchange for any form of compensation other than commission from the sale of insurance, engages, attempts to engage or offers to engage in any of the following activities:

(a) Acting as a consultant regarding insurance.

(b) Giving advice regarding insurance.

(c) Rendering an opinion regarding insurance.

(d) In any other manner providing information about insurance. [1985 c 697 §2, 1989 c.701 §53]

**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 person who, while conducting an educational seminar, performs any of the activities described in ORS 744.605 (2).

(4) 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.

(5) Any actuary who is a member of an organization certified by the director as establishing standards for the actuarial profession.

(6) A person who provides or offers or purports to provide any of the services described in ORS 744.605 only to an agent or an authorized insurer. [1985 c 697 §3; 1989 c.701 §54]

**Note:** Sections 55 and 56, chapter 701, Oregon Laws 1989, provide

**Sec. 55.** The prohibition in ORS 744.605 does not apply to any authorized insurer or any licensed agent [1989 c 701 §55]

**Sec. 56.** Section 55 of this Act becomes operative January 1, 1992 [1989 c 701 §56]

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

744.615 [1985 c 697 §4; repealed by 1989 c.701 §81]

**744.619 Qualifications for resident insurance consultant's license.** An applicant for a license as a resident insurance consultant shall apply for the license as provided in ORS 744.001 and must meet the following requirements:

(1) The applicant must satisfy the bond and insurance requirements under ORS 744.635.

(2) The applicant, if an individual, must establish a residence or place of transacting insurance business in this state prior to filing an application. If the application is a firm or corporation, the applicant must establish an office in this state that is managed by an individual licensed as an insurance consultant.

(3) The applicant, if an individual, must have had at least five years' experience in the insurance business or have equivalent

educational qualifications as prescribed by the director.

(4) The applicant, if an individual, must pass a written examination given by the director.

(5) The applicant must satisfy any other requirements established by the director by rule. [1985 c 697 §5; 1989 c.701 §57]

**Note:** Sections 59 and 60, chapter 701, Oregon Laws 1989, provide:

**Sec. 59.** Notwithstanding ORS 744.619 and section 61 of this Act [744.631], the examination requirement does not apply to an applicant who is a licensed resident agent or a licensed nonresident agent [1989 c 701 §59]

**Sec. 60.** Section 59 of this Act is repealed January 1, 1992. [1989 c 701 §60]

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

**744.621 Nonresident insurance consultant license.** (1) A person who resides in another state or province of Canada and is licensed in that state or province as an insurance consultant or is registered under a regulatory program of the other state or province similar to ORS 744.605 to 744.665, as determined by the director, may be licensed to act as a nonresident insurance consultant in this state as provided in this section if the state or province in which the person resides gives the same privilege to a resident insurance consultant of this state.

(2) An individual applicant for a license to act as a nonresident insurance consultant shall apply for the license as provided in ORS 744.001 and must meet the following requirements:

(a) The applicant must have had at least five years' experience in the insurance business or have equivalent educational qualifications as prescribed by the director.

(b) The applicant must take and pass a written examination given by the director, unless the state or province in which the applicant resides licenses or registers insurance consultants of this state without examination.

(c) The applicant must satisfy any other requirements established by the director by rule. [1989 c.701 §58]

**Note:** 744.621 was added to and made a part of ORS chapter 744 by legislative action but was not added to any series therein See Preface to Oregon Revised Statutes for further explanation.

744.625 [1985 c.697 §6, 1987 c 774 §142, repealed by 1989 c.701 §81]

**744.626 Classes of insurance for consultants.** When the director issues a license authorizing a person to act as an insurance consultant, the director shall indorse on the license the class or classes of insurance described in this section with respect to which the person is authorized to act as an insur-

ance consultant. The classes of insurance are as follows:

(1) Life insurance.

(2) Health insurance.

(3) General lines insurance. Under this class, an insurance consultant may act as insurance consultant with respect to casualty, property, marine and transportation and surety insurance.

(4) Any class of insurance designated by the director by rule. [1989 c.701 §62]

Note: 744.626 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.

744.629 [1985 c 697 §7, repealed by 1989 c 701 §81]

744.630 [1957 c 247 §12, repealed by 1967 c 359 §704]

**744.631 Change of circumstance of nonresident insurance consultant.** (1) A nonresident insurance consultant shall not act as an insurance consultant in this state when the insurance consultant no longer holds a valid license as an insurance consultant in the state or province in which the insurance consultant resides. If the license of the insurance consultant in the state in which the insurance consultant resides is reinstated and if the nonresident license has not expired, the insurance consultant may apply to the director for reinstatement of the nonresident license.

(2) A nonresident insurance consultant who establishes residence in this state or a place of business in this state in which the insurance consultant transacts business as an insurance consultant shall not transact such business in this state under the nonresident license following the 30th day after the insurance consultant establishes the residence or place of business. An insurance consultant under this paragraph may act as a resident insurance consultant in this state if the insurance consultant obtains the appropriate license.

(3) A nonresident insurance consultant who changes residence to another state other than this state or to a province must apply to the director for a license as a nonresident insurance consultant as if the insurance consultant were initially applying for such a license. [1989 c.701 §61]

Note: 744.631 was added to and made a part of ORS chapter 744 by legislative action but was not added to any series therein. See Preface to Oregon Revised Statutes for further explanation.

**744.635 Bond and insurance.** (1) Before receiving a license to act as an insurance consultant:

(a) An applicant shall execute and deliver to the director a bond of \$5,000 that is in the

form and issued by a surety or sureties approved by the director.

(b) 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.

(2) The director may decrease or eliminate either or both of the requirements of subsection (1) of this section if the director determines that conditions in the market place for such bonds or insurance would, in the sole opinion of the director, prevent qualified individuals from obtaining a license to act as an insurance consultant. [1985 c.697 §8, 1989 c 701 §63]

744.639 [1985 c 697 §9, repealed by 1989 c 701 §81]

744.640 [1957 c 247 §13, repealed by 1967 c 359 §704]

744.645 [1985 c 697 §10; repealed by 1989 c.701 §81]

**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** [1985 c.697 §13; repealed by 1989 c.701 §81]

**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.

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