

CHAPTER 278

AN ACT concerning insurance producers and amending and supplementing P.L.2001, c.210.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 15 of P.L.2001, c.210 (C.17:22A-40) is amended to read as follows:

C.17:22A-40 Causes for probation, suspension, revocation, refusal to issue or renew.

15. a. The commissioner may place on probation, suspend, revoke or refuse to issue or renew an insurance producer's license or may levy a civil penalty in accordance with subsection c. of section 20 of this act or any combination of actions, for any one or more of the following causes:

(1) Providing incorrect, misleading, incomplete or materially untrue information in the license application;

(2) Violating any insurance laws, or violating any regulation, subpoena or order of the commissioner or of another state's insurance regulator;

(3) Obtaining or attempting to obtain a license through misrepresentation or fraud;

(4) Improperly withholding, misappropriating or converting any monies or properties received in the course of doing insurance business;

(5) Intentionally misrepresenting the terms of an actual or proposed insurance contract, policy or application for insurance;

(6) Having been convicted of a felony or crime of the fourth degree or higher;

(7) Having admitted or been found to have committed any insurance unfair trade practice or fraud;

(8) Using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of insurance business in this State or elsewhere;

(9) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory;

(10) Forging another's name to an application for insurance or to any document related to an insurance transaction;

(11) Improperly using notes or any other reference material to complete an examination for an insurance producer license;

(12) Knowingly accepting insurance business from an unlicensed insurance producer;

(13) Failing to comply with an administrative or court order imposing a child support obligation;

(14) Failing to pay income tax or comply with any administrative or court order directing payment of income tax pursuant to Title 54A of the New Jersey Statutes;

(15) Intentionally withholding material information or making a material misstatement in an application for a license;

(16) Committing any fraudulent act;

(17) Knowingly facilitating or assisting another person in violating any insurance laws;

(18) Failing to notify the commissioner within 30 days of his conviction of any crime, indictment or the filing of any formal criminal charges, or the suspension or revocation of any insurance license or authority by a state, other than this State, or the initiation of formal disciplinary proceedings in a state, other than this State, affecting the producer's insurance license; or failing to obtain the written consent pursuant to sections 1033 and 1034 of Title 18, United States Code (18 U.S.C. ss.1033 and 1034); or failing to supply any documentation that the commissioner may request in connection therewith; or

(19) Failing to notify the commissioner within 30 days of the final disposition of any formal disciplinary proceedings initiated against the insurance producer, or disciplinary action taken against the producer, by the Financial Industry Regulatory Authority (FINRA), any successor organization, or other similar non-governmental regulatory authority with statutory authority to create and enforce industry standards of conduct, or of any other administrative actions or criminal prosecutions, as required by sections 15 and 22 of P.L.2001, c.210 (C.17:22A-40 and 17:22A-47), or failing to supply any documentation the commissioner may request in connection therewith.

b. If the action by the commissioner is to nonrenew or to deny an application for an insurance producer license, the commissioner shall notify the applicant or licensee and advise, in writing, the applicant or licensee of the reason for the denial or nonrenewal of the license. The applicant or licensee may make written demand upon the commissioner for a hearing before the commissioner, or his designee, to determine the reasonableness of the commissioner's action. The hearing shall be held pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

c. The insurance producer license of a business entity may be suspended, revoked or refused if the commissioner finds, after hearing, that an individual licensee's violation was known or should have been known by one or more of the partners, officers or managers acting on behalf of the business entity and the violation was neither reported to the commissioner nor corrective action taken.

d. The commissioner shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by this act and Title 17 of the Revised Statutes or Title 17B of the New Jersey Statutes against any person who is under investigation for or charged with a violation of this act or Title 17 of the Revised Statutes or Title 17B of the New Jersey Statutes even if the person's license or registration has been surrendered or has lapsed by operation of law.

2. Section 22 of P.L.2001, c.210 (C.17:22A-47) is amended to read as follows:

C.17:22A-47 Reports to commissioner.

22. a. An insurance producer shall report to the commissioner any administrative action taken against the insurance producer in another jurisdiction or by another governmental agency in this State within 30 days of the final disposition of the matter. This report shall include a copy of the order, consent order or other relevant legal documents.

b. Within 30 days of the initial pretrial hearing date, an insurance producer shall report to the commissioner any criminal prosecution of the producer taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing and any other relevant legal documents.

c. An insurance producer shall report to the commissioner any disciplinary action taken against the insurance producer, or any formal disciplinary proceedings initiated against the producer, by the Financial Industry Regulatory Authority (FINRA), any successor organization, or other similar non-governmental regulatory authority with statutory authority to create and enforce industry standards of conduct, within 30 days of the final disposition of the matter. The report shall include a copy of the order, consent order or other relevant legal documents.

C.17:22A-47.1 Temporary suspension for failure to report to commissioner; additional penalties.

3. a. Upon receipt of information that a producer has failed to report to the commissioner any administrative action, criminal prosecution or any disciplinary action taken against the producer, as required by sections 15 and 22 of P.L.2001, c.210 (C.17:22A-40 and 17:22A-47), the commissioner may notify the producer that its authority to sell, solicit or negotiate insurance, or be affiliated in any manner with the sale, solicitation or negotiation of insurance in this State shall be temporarily suspended.

b. In addition to any temporary suspension imposed pursuant to subsection a. of this section, and in addition to any other penalties that may be imposed under subsection c. of section 20 of P.L.2001, c.210 (C.17:22A-45) the commissioner, after notice and an opportunity for a hearing, may impose a penalty against an insurance producer in the amount of up to \$10,000 for a first violation, up to \$25,000 for a second violation and up to \$100,000 for a third or subsequent violation for failure to provide full, accurate and truthful information to the commissioner in accordance with sections 15 and 22 of P.L.2001, c.210 (C.17:22A-40 and 17:22A-47). A civil penalty imposed pursuant to this section shall be collected by the Commissioner of Banking and Insurance in a summary proceeding in the Superior Court in accordance with the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

c. The commissioner shall continue the temporary suspension imposed pursuant to subsection a. of this section until the commissioner is satisfied that the producer has provided information in accordance with sections 15 and 22 of P.L.2001, c.210 (C.17:22A-40 and 17:22A-47) and in the case of any administrative or disciplinary action, has satisfied all the conditions, judgments or orders related to that action which are required to reinstate the producer's good standing with the agency or authority imposing that action, and has paid all fines imposed pursuant to this section.

4. This act shall take effect immediately.

Approved January 17, 2010.