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Senate File 299

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Passed on File.

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A BILL FOR

An Act relating to the qualifications and licensing of life insurance agents.

Be It Enacted by the General Assembly of the State of Iowa:

1 Section 1. (a) The term "life insurance agent" means any
2 authorized or acknowledged agent of an insurer, and any sub-agent
3 of such agent, who acts as such in the solicitation of, negotiation
4 for, or procurement or making of a life insurance or annuity
5 contract; except that the term "life insurance agent" shall not
6 include any regular salaried officer or employee of a licensed
7 insurer, or of a licensed life insurance agent, who does not
8 solicit or accept from the public applications for any such contract.
9 A regular salaried officer or employee of an insurer authorized to
10 do business in this state shall not be deemed to be a "life
11 insurance agent" by reason of rendering assistance to, or on be-
12 half of a licensed life insurance agent, provided that such
13 salaried officer or employee devotes substantially all of his time
14 to activities other than the solicitation of applications for life
15 insurance or annuity contracts and receives no commission or other
16 compensation directly dependent upon the amount of business
obtained.

17 (b) The term "sub-agent" means any person
18 (except as provided in paragraph 1 (a)) who acts for or on behalf
19 of a licensed life insurance agent in the solicitation of,
20 negotiation for, or procurement or making of a life insurance or
21 annuity contract, whether or not he is designated by such agent
22 as a sub-agent or a solicitor or by any other title, including
23 the members of a partnership and the officers, directors, or
24 stockholders of a corporation named in the license issued to a
25 partnership or corporation as hereafter provided. Each sub-agent
26 shall be deemed to be a life insurance agent, as defined above,
27 and whenever, in succeeding sections of this act, the term "life
28 insurance agent" is used, it shall include sub-agents, whether or
29 not they are specifically mentioned. Each such person shall
30 individually file an application for license and submit to a
31 written examination as hereafter provided for applicants for a
32 life insurance agent's license.

33 (c) Any person, partnership or corporation may
34 be licensed as a life insurance agent upon compliance with the
35 provisions of this law; provided, however, that the articles of
36 partnership or incorporation shall authorize the partnership or
37 corporation applying for such license specifically to engage in
38 such business. The application for a license by, and the license
39 issued to a partnership or corporation shall name the members of
40 such partnership or the officers, directors, or stockholders of
41 such corporation who are authorized to act as agents thereunder,
42 and no such license shall be issued unless and until the persons

43 named in the application therefor have qualified for individual
44 licenses as hereafter provided.

1 Sec. 2. (a) No person, partnership or corporation shall,
2 within this state, solicit, procure, receive or forward applications
3 for life insurance or annuities, or issue or deliver policies
4 for, or in any manner secure, help, or aid in the placing of any
5 contract of life insurance or annuity for any person other than
6 himself, directly or indirectly, with any insurer not authorized
7 to do business in this state.

8 (b) Any person, partnership or corporation shall
9 be liable, personally, for the full amount of any loss sustained
10 on any contract of life insurance or annuity made by or through
11 him or it, directly or indirectly, with any insurer not authorized
12 to do business in this state and, in addition, for any premium
13 taxes which may become due under any law of this state by reason
14 of such contract.

1 Sec. 3. (a) No person, partnership, or corporation shall
2 act as a life insurance agent within this state until he shall
3 have procured a license as required by the laws of this state.

4 (b) No insurer or licensed life insurance agent
5 doing business in this state, shall pay directly or indirectly
6 any commission, or other valuable consideration to any person,
7 partnership, or corporation for services as a life insurance agent
8 within this state, unless such person, partnership, or corporation
9 shall hold a currently valid license to act as a life insurance
10 agent as required by the laws of this state; nor shall any person,

11 partnership, or corporation, other than a duly licensed life
12 insurance agent, accept any such commission or other valuable
13 consideration; provided, however, that the provisions of this
14 section shall not prevent the payment or receipt of renewal or
15 other deferred commissions to or by any person, partnership or
16 corporation solely because such person, partnership or corpor-
17 ation has ceased to hold a license to act as a life insurance
18 agent.

1 Sec. 4. (a) Each applicant for a license to act as a life
2 insurance agent within this state shall file with the commissioner
3 of insurance his written application on forms furnished by the
4 commissioner. The application shall be signed and duly sworn to
5 by the applicant. The prescribed form shall require the applicant
6 to state his full name; residence; age; occupation and place of
7 business for five years preceding date of the application; whether
8 applicant has ever held a license to solicit life, or any other
9 insurance in any state; whether he has been refused, or has had
10 suspended or revoked a license to solicit life, or any other
11 insurance in any state; what insurance experience, if any, he
12 has had; what instruction in life insurance and in the insurance
13 laws of this state he has had or expects to have; whether any
14 insurer or general agent claims applicant is indebted under an
15 agency contract or otherwise, and if so, the name of the claimant,
16 the nature of the claim and the applicant's defense thereto;
17 whether applicant has had an agency contract canceled and, if so,
18 when, by what company or general agent and the reasons therefor;

19 whether applicant will devote all or part of his efforts to acting
20 as a life insurance agent, and, if part only, how much time he
21 will devote to such work, and in what other business or businesses
22 he is engaged or employed; whether, if applicant is a married
23 woman, her husband has ever applied for or held a license to
24 solicit life, or any other insurance in any state and whether such
25 license has been refused, suspended, or revoked; such other
26 information as the commissioner of insurance in his discretion
27 may require

28 (b) The application shall be accompanied by a
29 certificate on forms furnished by the commissioner of insurance
30 and signed by an officer or properly authorized representative of
31 the insurer stating that the insurer has investigated the character
32 and background of the applicant and is satisfied that he is trust-
33 worthy and qualified to act as its agent and to hold himself out
34 in good faith to the general public as a life insurance agent and
35 that the insurer desires that the applicant be licensed as a
36 life insurance agent to represent it in this state.

37 (c) The application, when filed, shall be accompanied
38 by the annual fee in the amount of one dollar (\$1.00) and, in the
39 case of applicants required to take an examination as hereafter
40 prescribed, by an examination fee in the amount of five dollars
41 (\$5.00). In the event an applicant fails to qualify for, or is
42 refused a license, the annual fee shall be returned to him; the
43 examination fee shall not be returned for any reason.

1 Sec. 5 (a) Each applicant for a license to act as a life

2 insurance agent within this state shall submit to a personal
3 written examination to determine his competence with respect to
4 life insurance and annuity contracts and his familiarity with the
5 pertinent provisions of the laws of this state, and shall pass
6 the same to the satisfaction of the commissioner of insurance;
7 except that no such written examination shall be required of:

8 (1) An applicant for a renewal license, unless the
9 commissioner of insurance determines that such examination is
10 necessary to establish the competency or trustworthiness of such
11 individual; or unless a license had not been issued to such applicant
12 within two years preceding the date of filing his application;

13 (2) An applicant who is a ticket selling agent or
14 other representative of a public carrier and who shall act under
15 a restricted license only as an agent with respect to accident
16 insurance tickets covering risks of travel;

17 (3) In the discretion of the commissioner of
18 insurance, an applicant whose license to do business or act as a
19 life insurance agent in this state was suspended less than one
20 year prior to the date of application.

21 (b) The commissioner of insurance may establish rules
22 and regulations with respect to the scope, type and conduct of
23 such written examinations and the times and places within this
24 state where they shall be held; provided, that applicants shall
25 be permitted to take such examinations at least once in each week
26 at the principal office of the commissioner of insurance.

27 (c) No person who shall have taken and failed to pass

28 two examinations given pursuant to this section shall be entitled
29 to take any further examination until after the expiration of six
30 (6) months from the date of the last examination in which he failed.
31 If such person shall thereafter fail to pass two more such
32 examinations he shall not be eligible to take any further exami-
33 nation until after the expiration of one year from the date of his
34 last unsuccessful examination. An examination fee shall be paid
35 for each and every examination.

36 (d) The commissioner of insurance is authorized in
37 his discretion to appoint an advisory board to make recommendations
38 to him with respect to the scope, type, and conduct of written
39 examinations and the times and places within the state where they
40 shall be held. This advisory board, if appointed, shall consist
41 of individuals experienced in the life insurance business, and
42 may include life insurance company officers and employees, general
43 agents and managers, and licensed life insurance agents. The
44 members of the board shall serve without pay but, upon the
45 authorization of the commissioner of insurance, shall be re-
46 imbursed for their reasonable expenses in attending meetings of
47 the advisory board.

1 Sec. 6. If the commissioner of insurance is satisfied that
2 the applicant is trustworthy and competent and the applicant, if
3 required, has passed his written examination, a license shall be
4 issued forthwith, limited to the insurer and kind of insurance
5 for which the agent is to be appointed. If the applicant has
6 not passed his written examination, or for any of the reasons set

7 forth in section twelve (12) below, the commissioner of insurance
8 shall notify the applicant and the insurer in writing that a
9 license will not be issued to him.

1 Sec. 7. (a) A person not resident in this state may be
2 licensed as a life insurance agent upon compliance with the pro-
3 visions of this Act, provided that the state in which such person
4 resides will accord the same privilege to a citizen of this State.

5 (b) The commissioner of insurance is further authorized
6 to enter into reciprocal agreements with the appropriate official
7 of any other state waiving the written examination of any applicant
8 resident in such other state, provided:

9 (1) That a written examination is required of applicants
10 for a life insurance agent's license in such other state;

11 (2) That the appropriate official of such other state
12 certify that the applicant holds a currently valid license as
13 a life insurance agent in such other state and either passed such
14 written examination or was the holder of a life insurance agent's
15 license prior to the time such written examination was required;

16 (3) That the applicant has no place of business with-
17 in this state nor is an officer, director, stockholder, or partner
18 in any corporation or partnership doing business in this state as
19 a life insurance agent;

20 (4) That in such other state, a resident of this
21 state is privileged to procure a life insurance agent's license
22 upon the foregoing conditions and without discrimination as to
23 fees or otherwise in favor of the residents of such other state.

1 Sec. 8. (a) Any life insurance agent licensed in this state
2 may apply to the commissioner, at any time while his license is in
3 force, for an additional license or licenses authorizing him to act
4 as a life insurance agent for an additional insurer or insurers.
5 Such application shall set forth each insurer which the applicant
6 is then licensed to represent; a certificate from the insurer to
7 be named in each additional license applied for that it desires to
8 appoint the applicant as its agent; and such other information as
9 the commissioner of insurance may require. Upon receipt of each
10 such application, the commissioner of insurance may issue such
11 additional license without examination of, or further investigation
12 concerning the applicant. Any life insurer may file a request
13 with the commissioner for notification that any life agent author-
14 ized to represent it has been appointed to represent another life
15 insurer. Pursuant to such request for notice, the commissioner
16 shall notify such insurer of the appointment of life agents as
17 life agents for other insurers.

18 (b) Any life insurance agent licensed in this state
19 may place excess or rejected risks with any insurer lawfully doing
20 business in this state other than an insurer such agent is licensed
21 to represent; provided, however, that such life insurance agent
22 shall procure an additional license to represent such other insurer
23 before receiving commissions or other compensation for his services.

1 Sec. 9. (a) Each license issued to a life insurance agent
2 shall expire one (1) year following the date of issue, unless
3 prior thereto it is revoked or suspended by the commissioner of

4 insurance or the authority of the agent to act for the insurer
5 is terminated.

6 (b) In the absence of a contrary ruling by the
7 commissioner, license renewals may be issued from year to year up-
8 on request of the insurer, without further action on the part of
9 the agent.

10 (c) Each request for renewal of license shall show
11 whether the agent devotes all or part of his efforts to acting as
12 a life insurance agent, and, if part only, how much time he devotes
13 to such work and in what other business or businesses he is
14 engaged or employed.

15 (d) Upon the filing of a request for renewal of
16 license and payment of the required fees prior to its date of
17 expiration, the current license shall continue in force until the
18 renewal license is issued by the commissioner or until the
19 commissioner has refused for cause to issue each renewal license,
20 as provided in section twelve (12) below, and has given notice of
21 such refusal in writing to the insurer and the agent.

1 Sec. 10. The commissioner of insurance, if he is satisfied
2 with the honesty and trustworthiness of the applicant, may
3 issue a temporary life insurance agent's license without requiring
4 the applicant to pass a written examination, as follows:

5 (a) To the executor or administrator of the estate
6 of a deceased person who at the time of his death was a licensed
7 life insurance agent.

8 (b) To a surviving next of kin of such a deceased

9 person, if no administrator or executor has been appointed and
10 qualified, but any license issued under this sub-paragraph
11 shall be revoked upon issuance of a license to an executor or
12 administrator under sub-paragraph (a) above:

13 (c) No license issued under this section shall
14 be effective for more than ninety (90) days. The commissioner,
15 in his discretion, may renew such license once upon proper
16 application and for good cause.

1 Sec. 11. (a) Every insurer shall, upon termination of the
2 appointment of any life insurance agent, immediately file with
2 the commissioner of insurance a statement of the facts relative
4 to the termination of the appointment and the date and cause
5 thereof. The commissioner shall thereupon terminate the license
6 of such agent to represent such insurer in this state.

7 (b) Any information, document, record or statement
8 required to be made or disclosed to the commissioner of insurance
9 pursuant to this section shall be deemed a privileged communi-
10 cation and shall not be used as evidence in any court action
11 or proceeding.

1 Sec. 12. (a) A license may be refused, or a license duly
2 issued may be suspended or revoked or the renewal thereof refused
3 by the commissioner of insurance if, after notice and hearing
4 as hereafter provided, he finds that the applicant for, or holder
5 of such license:

6 (1) Has wilfully violated any provision of the
7 insurance laws of this state; or

- 8 (2) Has intentionally made a material mis-
9 statement in the application for such license; or
- 10 (3) Has obtained, or attempted to obtain,
11 such license by fraud or misrepresentation; or
- 12 (4) Has misappropriated or converted to his
13 own use or illegally withheld money belonging to an insurer or
14 an insured or beneficiary; or
- 15 (5) Has otherwise demonstrated lack of trust-
16 worthiness or competence to act as a life insurance agent; or
- 17 (6) Has been guilty of fraudulent or dis-
18 honest practices; or
- 19 (7) Has materially misrepresented the terms
20 and conditions of life insurance policies or contracts; or
- 21 (8) Has made or issued, or caused to be made
22 or issued, any statement misrepresenting or making incomplete
23 comparisons regarding the terms or conditions of any life
24 insurance or annuity contract legally issued by any insurer, for
25 the purpose of inducing or attempting to induce the owner of
26 such contract to forfeit or surrender such contract or allow
27 it to lapse for the purpose of replacing such contract with
28 another; or
- 29 (9) Has obtained, or attempted to obtain such
30 license, not for the purpose of holding himself out to the
31 general public as a life insurance agent, but primarily for the
32 purpose of soliciting, negotiating or procuring life insurance
33 or annuity contracts covering himself or members of his family,

34 or the officers, directors, stockholders, partners, employees,
35 or debtors of a partnership, association, or corporation of
36 which he or a member of his family is an officer, director,
37 stockholder, partner, or employee.

38 (b) Before any license shall be refused, except
39 for failure to pass a required written examination, or suspend-
40 ed or revoked, or the renewal thereof refused hereunder, the
41 commissioner of insurance shall give notice of his intention so
42 to do, by registered mail, to the applicant for, or holder of
43 such license and the insurer whom he represents or who desires
44 that he be licensed, and shall set a date not less than twenty
45 (20) days from the date of mailing such notice when the
46 applicant or licensee and a duly authorized representative of
47 the insurer may appear to be heard and produce evidence. In
48 the conduct of such hearing, the commissioner of insurance or
49 any regularly salaried employee specially designated by him for
50 such purpose shall have power to administer oaths, to require
51 the appearance of, and examine any person under oath, and to
52 require the production of books, records or papers relevant to
53 the inquiry upon his own initiative or upon the request of the
54 applicant or licensee. Upon termination of such hearing, find-
55 ings shall be reduced to writing, and upon approval by the
56 commissioner of insurance, shall be filed in his office and
57 notice of the findings sent by registered mail to the applicant
58 or licensee and the insurer concerned.

59 (c) No licensee whose license has been revoked

60 hereunder shall be entitled to file another application for a
61 license as a life insurance agent within one (1) year from the
62 effective date of such revocation or, if judicial review of such
63 revocation is sought, within one (1) year from the date of final
64 order or decree affirming such revocation. Such application,
65 when filed, may be refused by the commissioner of insurance un-
66 less the applicant shows good cause why the revocation of his
67 license shall not be deemed a bar to the issuance of a new
68 license.

1 Sec. 13. Any person aggrieved by an act of the commission-
2 er of insurance under the provisions of this Act may appeal
3 therefrom within thirty days after receipt of notice thereof to
4 any court of competent jurisdiction. Thereafter, such pro-
5 ceedings shall proceed as in the case of any other civil cause.

1 Sec. 14. Every licensed life insurance agent shall inform
2 the commissioner of insurance promptly in writing of a change
3 of his principal business address.

1 Sec. 15. Any person, partnership, association, or corpor-
2 ation violating any of the provisions of this Act, shall, in
3 addition to any other penalty specifically provided, be guilty
4 of a misdemeanor and, upon conviction, shall be fined not more
5 than five hundred dollars (\$500.00) or imprisoned not more
6 than six (6) months, or both, each such violation being a
7 separate offense hereunder. In addition, if such offender
8 holds a license as a life insurance agent, such license
9 may be suspended or revoked as hereinafter provided.

1 Sec. 16. The commissioner of insurance is authorized
2 to establish and from time to time to amend reasonable rules
3 and regulations concerning all matters included in the Act.

1 Sec. 17. All laws or parts of laws in conflict here-
2 with are hereby repealed.

1 Sec. 18. Should any provision or section of this Act
2 be held to be unconstitutional or otherwise invalid for any
3 reason, such holding shall not be construed as affecting the
4 validity of any remaining portion of such section or of this
5 Act.