

AN ACT

Codification  
District of  
Columbia  
Official Code

2001 Edition

2008 Summer  
Supp.

West Group  
Publisher

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Producer Licensing Act of 2002 to establish uniformity between District law and regulations and national standards, including establishing categories of limited lines licenses and modifying the term of an initial producer license to coincide with a producer’s birth month, and to authorize the fingerprinting of an applicant for an insurance producer license; and to amend the Fire and Casualty Act to make conforming amendments.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Producer Licensing Amendment Act of 2008”.

Sec. 2. The Producer Licensing Act of 2002, effective March 27, 2003 (D.C. Law 14-264; D.C. Official Code § 31-1131.01 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 31-1131.02) is amended as follows:

Amend  
§ 31-1131.02

(1) A new paragraph (2A) is added to read as follows:

“(2A) “Department” means the Department of Insurance, Securities, and Banking, established by section 3 of the Department of Insurance and Securities Regulation Establishment Act of 1996, effective May 21, 1997 (D.C. Law 11-268; D.C. Official Code § 31-102).”.

(2) Paragraph (4) is amended as follows:

(A) The lead-in text is amended by striking the phrase “of Columbia”.

(B) Subparagraph (B) is amended by striking the word “an” and inserting the phrase “a resident” in its place.

(3) A new paragraph (4A) is added to read as follows:

“(4A) “Individual” means a natural person.”.

(4) Paragraph (5) is amended as follows:

(A) Strike the word “as”.

(B) Strike the phrase “section 7” and insert the phrase “section 7(a)” in its place.

(5) Paragraph (6) is amended by striking the phrase “negotiate insurance” and inserting the phrase “negotiate insurance under this act” in its place.

(6) Paragraphs (9) and (10) are repealed.

(7) Paragraph (11) is amended to read as follows:

“(11) “Limited line of insurance” means a line of insurance:

“(A) Enumerated in section 7(a)(10)(A), (B), (C), (D), or (E);

“(B) Established by the Commissioner pursuant to section 7(a)(10)(F);

or

“(C) Recognized by the Commissioner pursuant to section 7(a)(10)(G).”.

(8) Paragraph (12) is amended as follows:

(A) Strike the word “producer” and insert the phrase “insurance producer” in its place.

(B) Strike the phrase “negotiate limited lines” and insert the phrase “negotiate a limited line of” in its place.

(9) A new paragraph (14A) is added to read as follows:

“(14A) “Nonresident insurance producer” means an insurance producer whose home state is not the District.”.

(10) A new paragraph (15A) is added to read as follows:

“(15A) “Resident insurance producer” means an insurance producer whose home state is the District.”.

(11) Paragraph (18) is amended by striking the phrase “the insurer” and inserting the phrase “an insurer” in its place.

(12) Paragraph (19) is amended to read as follows:

“(19) “Uniform Business Entity Application” means the current version of the NAIC Uniform Application for Business Entity Insurance License/Registration.”.

(13) Paragraph (20) is amended to read as follows:

“(20) “Uniform Individual Application” means the current version of the NAIC Uniform Application for Individual Insurance Producer License.”.

(b) Section 3 (D.C. Official Code § 31-1131.03) is amended as follows:

(1) The existing text is designated as subsection (a).

(2) A new subsection (b) is added to read as follows:

“(b)(1) A person who maintains his or her principal place of residence and principal place of business in the District shall apply for a resident insurance producer license.

“(2) A person who maintains his or her principal place of residence and principal place of business outside the District shall apply for a nonresident insurance producer license.

“(3) A person who maintains either, but not both, his or her principal place of residence or principal place of business in the District shall apply for:

“(A) A nonresident insurance producer license if the person is licensed as a resident insurance producer in another state; or

“(B) A resident insurance producer license if the person is not licensed as a resident insurance producer in another state.”.

Amend  
§ 31-1131.03

**ENROLLED ORIGINAL**

(c) Section 5 (D.C. Official Code § 31-1131.05) is amended as follows:

**Amend  
§ 31-1131.05**

(1) The section heading is amended to read as follows:

“Sec. 5. Examination prior to licensure.”.

(2) Subsection (a) is amended to read as follows:

“(a) An individual applying for a resident insurance producer license shall pass a written examination unless the individual is:

“(1) Applying for a limited lines insurance producer license or a license in the surplus lines line of authority; or

“(2) Exempt from examination under section 9.”.

(3) A new subsection (a-1) is added to read as follows:

“(a-1) The examination required by subsection (a) of this section shall test the knowledge of the individual concerning the lines of authority for which application is made, the duties and responsibilities of an insurance producer, and the insurance laws and regulations of the District.”.

(4) Subsection (d) is amended by striking the phrase “shall reapply for an examination and remit” and inserting the phrase “may reapply for an examination. The individual shall remit” in its place.

(d) A new section 5a is added to read as follows:

“Sec. 5a. Pre-licensing education.

“(a) The Commissioner may require, by rule, that an individual complete a pre-licensing course of study before:

“(1) Taking the examination required by section 5; or

“(2) Applying for an insurance producer license.

“(b) An insurer that sells, solicits, or negotiates a limited line of insurance in the District shall provide to each individual whose duties will include selling, soliciting, or negotiating the insurer’s limited line of insurance in the District a program of instruction that is approved by the Commissioner. The insurer shall provide the program of instruction to the individual prior to the individual’s application for licensure as a limited lines insurance producer.”.

(e) Section 6 (D.C. Official Code § 31-1131.06) is amended as follows:

**Amend  
§ 31-1131.06**

(1) The section heading is amended by striking the word “for” and inserting the phrase “resident insurance producer” in its place.

(2) Subsection (a) is amended as follows:

(A) Strike the phrase “A person applying for an insurance” and insert the phrase “An individual applying for a resident insurance” in its place.

(B) Strike the phrase “Uniform Application” and insert the phrase “Uniform Individual Application” in its place.

(3) Subsection (b) is amended as follows:

(A) The lead-in text is amended by striking the phrase “acting as an insurance producer shall obtain an insurance producer license. Application shall be made

using” and inserting the phrase “applying for a resident business entity producer license shall make application to the Commissioner on” in its place.

(B) Paragraph (2) is amended by striking the word “licensed” and inserting the phrase “licensed individual” in its place.

(4) Subsection (d) is repealed.

(f) A new section 6b is added to read as follows:

“Sec. 6b. Fingerprinting.

“(a) An individual applying for a resident insurance producer license under this act (except for an individual applying only for a limited lines insurance producer license) and each officer, director, partner of, and owner of a controlling interest in, a business entity applying for a resident insurance producer license under this act (except for a business entity applying only for a limited lines insurance producer license) shall submit to the Commissioner the individual’s fingerprints along with the individual’s name, address, and written consent to the performance of a criminal history record background check.

“(b) The Commissioner may require, by rule, that an individual applying only for a resident limited lines insurance producer license and each officer, director, partner of, and owner of a controlling interest in, a business entity applying only for a resident limited lines insurance producer license, shall submit to the Commissioner his or her fingerprints along with his or her name, address, and written consent to the performance of a criminal history record background check.

“(c) The Commissioner may exchange the fingerprints and other information with, and receive criminal history record information from, the Metropolitan Police Department and the Federal Bureau of Investigation for the purposes of facilitating determinations regarding eligibility for licensure under this act.

“(d) The individual or business entity applying for licensure shall bear the cost of the criminal history record background check and all costs of administering and processing the background check.”.

(g) Section 7 (D.C. Official Code § 31-1131.07) is amended as follows:

(1) Subsection (a) is amended as follows:

(A) The lead-in text is amended by striking the phrase “issued an insurance” and inserting the phrase “issued a resident insurance” in its place.

(B) Paragraph (1) is amended by striking the word “Insurance” and inserting the phrase “Life, consisting of insurance” in its place.

(C) Paragraph (2) is amended by striking the word “Insurance” and inserting the phrase “Accident and health or sickness, consisting of insurance” in its place.

(D) Paragraph (3) is amended by striking the word “Insurance” and inserting the phrase “Property, consisting of insurance” in its place.

(E) Paragraph (4) is amended by striking the word “Insurance” and inserting the phrase “Casualty, consisting of insurance” in its place.

Amend  
§ 31-1131.07

**ENROLLED ORIGINAL**

(F) Paragraph (5) is amended by striking the word “Insurance” and inserting the phrase “Variable life and variable annuity, consisting of insurance” in its place.

(G) Paragraph (6) is amended as follows:

(i) Strike the word “Property” and insert the phrase “Personal lines, consisting of property” in its place.

(ii) Strike the word “and” at the end.

(H) Paragraph (7) is repealed.

(I) New paragraphs (8), (9), and (10) are added to read as follows:

“(8) Bail bonds, consisting of insuring or guaranteeing that a person will attend court when required, or will obey the orders or judgment of a court, as a condition to the release of the person from confinement;

“(9) Surplus lines, consisting of insurance coverage provided pursuant to section 40(a) of the Fire and Casualty Act, approved October 9, 1940 (54 Stat. 1080; D.C. Official Code § 31-2502.40(a)), by a company not otherwise authorized to do business in the District; and

“(10) Any of the following limited lines of insurance:

“(A) Car rental;

“(B) Credit;

“(C) Crop;

“(D) Surety;

“(E) Travel;

“(F) A limited line of insurance established by the Commissioner by rule; and

“(G) A line of insurance the Commissioner recognizes as a limited line of insurance for the purposes of complying with section 8(e).”

(2) A new subsection (a-1) is added to read as follows:

“(a-1) A person shall not be issued a license in the bail bonds or surplus lines line of insurance unless the person holds, or is simultaneously issued, a license in the property or casualty line of insurance.”

(3) Subsections (b), (c), and (d) are repealed.

(4) Subsection (e) is amended by striking the word “considers” and inserting the phrase “considers useful or” in its place.

(5) Subsection (f) is repealed.

(h) New sections 7a and 7b are added to read as follows:

“Sec. 7a. Term of license; renewal.

“(a) An initial individual insurance producer license issued after the effective date of the Producer Licensing Amendment Act of 2008, passed on 2<sup>nd</sup> reading on March 4, 2008 (Enrolled version of Bill 17-252) (and the first renewal after the effective date of the Producer Licensing Amendment Act of 2008, passed on 2<sup>nd</sup> reading on March 4, 2008 (Enrolled version of Bill 17-252), of an individual insurance producer license initially issued before the effective

date of the Producer Licensing Amendment Act of 2008, passed on 2<sup>nd</sup> reading on March 4, 2008 (Enrolled version of Bill 17-252), shall expire on the last day of the birth month of the producer that falls not less than 18 months and not more than 29 months after the effective date of the license.

“(b) An initial business entity insurance producer license issued after the effective date of the Producer Licensing Amendment Act of 2008, passed on 2<sup>nd</sup> reading on March 4, 2008 (Enrolled version of Bill 17-252) (and the first renewal after the effective date of the Producer Licensing Amendment Act of 2008, passed on 2<sup>nd</sup> reading on March 4, 2008 (Enrolled version of Bill 17-252)), of a business entity insurance producer license initially issued before the effective date of the Producer Licensing Amendment Act of 2008, passed on 2<sup>nd</sup> reading on March 4, 2008 (Enrolled version of Bill 17-252), shall expire on the May 31 that falls not less than 18 months and not more than 29 months after the effective date of the license.

“(c) A renewal of an existing license shall expire 2 years after the expiration date of the license period; provided, that the first renewal after the effective date of the Producer Licensing Amendment Act of 2008, passed on 2<sup>nd</sup> reading on March 4, 2008 (Enrolled version of Bill 17-252), of a license initially issued before the effective date of the Producer Licensing Amendment Act of 2008, passed on 2<sup>nd</sup> reading on March 4, 2008 (Enrolled version of Bill 17-252), shall be governed by subsections (a) and (b) of this section.

“(d) A person shall apply for or request renewal of a license on a form, or through such means, as may be prescribed by the Commissioner.

“(e) The Commissioner shall renew an insurance producer license if:

“(1) The producer applies for or requests license renewal on the form, or through such means, prescribed by the Commissioner;

“(2) All fees prescribed by the Commissioner are paid;

“(3) If the producer is a resident insurance producer:

“(A) The continuing education requirements, if any, have been met;

“(B) The license is not subject to non-renewal under section 12; and

“(C) The person has submitted a full set of fingerprints, if required by

law or rule; and

“(4) If the producer is a nonresident producer, he or she continues to be licensed as a resident producer, in good standing, in his or her home state.

“(f) An individual insurance producer who allows his or her license to lapse may, within one year after the expiration date of the license, reinstate the same license without the necessity of passing a written examination; provided, that the producer shall pay a penalty in the amount of twice the unpaid renewal fee.

“(g) An insurance producer who is unable to comply with the license renewal procedures due to military service or some other extenuating circumstance may request a waiver of those procedures. The insurance producer may also request a waiver of any examination requirement or any other penalty or sanction imposed for failure to comply with renewal procedures.

“Sec. 7b. Continuing education.

“The Commissioner may establish continuing education requirements for resident insurance producers.”

(i) Section 8 (D.C. Official Code § 31-1131.08) is amended as follows:

Amend  
§ 31-1131.08

(1) Subsection (a) is amended to read as follows:

“(a) A person may request a nonresident license if the person is licensed as a resident insurance producer in another state.”

(2) New subsections (a-1) and (a-2) are added to read as follows:

“(a-1) A person requesting a nonresident insurance producer license shall make his or her request on a form, or through such means, prescribed by the Commissioner.

“(a-2) Unless denied licensure under section 12 or granted a resident insurance producer license by meeting the requirements of sections 5 and 6, a nonresident person shall receive a nonresident insurance producer license if:

“(1) The person is currently licensed as a resident and in good standing in his or her home state;

“(2) The person has submitted the proper request for a nonresident insurance producer license and has paid the fees as prescribed by the Commissioner; and

“(3) The person has submitted or transmitted to the Commissioner a completed NAIC Uniform Application or the application for licensure that the person submitted to his or her home state.”

(3) Subsection (c) is repealed.

(4) Subsection (e) is amended as follows:

(A) Strike the phrase “limited line credit insurance or other type of limited lines” and insert the phrase “limited lines insurance” in its place.

(B) Strike the phrase “nonresident limited lines” and insert the phrase “nonresident limited lines insurance” in its place.

(5) A new subsection (f) is added to read as follows:

“(f) An applicant may qualify for a license under this act as a nonresident only if the applicant holds an equivalent license in the applicant’s home state. A license issued to a nonresident of the District shall grant the same rights and privileges as a resident licensee.”

(j) A new section 8a is added to read as follows:

“Sec. 8a. Changes of name, residency, or address.

“(a) A licensee shall inform the Commissioner of a change of the licensee’s residential or business address within 30 days of the change of address. A nonresident insurance producer who moves from one state to another state or a resident insurance producer who moves from the District to another state shall file a change of address and provide certification from the new resident state within 30 days after the change of residence. No fee or license application shall be required.

“(b) A licensee shall inform the Commissioner of a change of the licensee’s legal or corporate name within 30 days after the change of name.

**ENROLLED ORIGINAL**

“(c) Failure to timely inform the Commissioner of a change in legal name or address shall result in a penalty as prescribed by the Commissioner.

“(d) A person licensed as an insurance producer in another state who moves to the District shall make application within 90 days of establishing legal residence to become a resident licensee under section 6 unless the person maintains his principal place of business in another state and the person has a resident insurance producer license in that state.”.

(k) Section 9 (D.C. Official Code § 31-1131.09) is amended as follows:

**Amend  
§ 31-1131.09**

(1) The section heading is amended by striking the period and inserting the phrase “and preclicensing education.” in its place.

(2) Subsection (a) is amended as follows:

(A) The lead-in text is amended as follows:

(i) Strike the phrase “an insurance” and insert the phrase “a resident insurance” in its place.

(ii) Strike the word “education” and insert the phrase “education (if preclicensing education is required by the Commissioner pursuant to section 5a)” in its place.

(B) Paragraph (1) is amended by striking the word “person” and inserting the word “individual” in its place.

(3) Subsections (b), (c), (d), and (e) are repealed.

(l) Section 12 (D.C. Official Code § 31-1131.12) is amended as follows:

**Amend  
§ 31-1131.12**

(1) Subsection (a) is amended as follows:

(A) The lead-in text is amended to read as follows:

“The Commissioner may refuse to issue an insurance producer license; place an insurance producer on probation; suspend, revoke, or refuse to renew an insurance producer’s license; levy a civil penalty in accordance with subsection (d) of this section; issue subpoenas and administer oaths; or take any combination of these actions if an insurance producer or an applicant for an insurance producer license:”.

(B) Paragraph (11) is amended by striking the word “complete” and inserting the phrase “, or otherwise cheats on,” in its place.

(C) Paragraph (14) is amended by striking the word “state” in both places it appears and inserting the word “District” in its place.

(D) Paragraph (15) is repealed.

(E) A new paragraph (16) is added to read as follows:

“(16) Is found to have misrepresented satisfactory completion of, or improperly used notes or other reference material to complete, or otherwise cheats on, an examination in a preclicensure or continuing education course.”.

(2) A new subsection (a-1) is added to read as follows:

“(a-1) In addition to the reasons set forth in subsection (a) of this section, the Commissioner may place a business entity insurance producer on probation; suspend, revoke, or refuse to renew a business entity insurance producer’s license; or levy a civil penalty against a business entity insurance producer if:



“(1) One or more of the partners, officers, or managers acting on behalf of the business entity knew or should have known of the occurrence of a license violation;

“(2) The violation was not reported to the Commissioner; and

“(3) Corrective action was not taken.”.

(3) Subsection (b) is amended to read as follows:

“(b)(1) Except as provided in paragraph (2) of this subsection, the Commissioner shall not place an insurance producer on probation; suspend, revoke, or refuse to renew an insurance producer’s license; or levy a civil penalty against an insurance producer without first providing the following notice and opportunity for hearing to the applicant or licensee. The Commissioner shall notify the applicant or licensee, in writing, of the proposed action and the reason for the proposed action. The Commissioner shall also inform the applicant or licensee, in writing, that the applicant or licensee may, within 30 days after the date of the Commissioner’s notice, request a hearing to determine whether the proposed action should be taken. If a hearing is requested, the Commissioner, or a designee of the Commissioner, shall hold the hearing within 30 days after the date of receipt by the Commissioner of the written request, and the Commissioner shall not, except as provided in paragraph (2) of this subsection, take the proposed action before the close of the hearing.

“(2)(A) If the Commissioner determines that further transaction of business by a producer would be hazardous to the public or the policyholders or creditors of the producer, the Commissioner may revoke or suspend the license of the producer without giving notice or prior opportunity for a hearing; provided, that the Commissioner shall provide to the producer the opportunity for a hearing within 30 days after the effective date of the order of the revocation or suspension.

“(B) The Commissioner may refuse to issue an initial insurance producer license without giving notice or prior opportunity for a hearing; provided, that the Commissioner shall provide to the applicant the opportunity for a hearing within 30 days after the date of the denial.

“(3) In a hearing under this subsection, the Commissioner may administer oaths to witnesses and issue subpoenas for witnesses and documents. A witness testifying falsely under oath shall be subject to the penalties of perjury. The Commissioner’s authority to issue subpoenas shall not be limited to hearings if the Commissioner determines that the issuance of a subpoena is useful or necessary to protect the public interest. If a person refuses to obey a subpoena issued by the Commissioner, the Commissioner may petition the Superior Court of the District of Columbia (“Superior Court”) to enforce the subpoena, and the Superior Court may issue an order requiring the person to appear and testify before the Commissioner or produce documents. A person failing to obey the Superior Court’s order may be held in contempt of court.”.

(4) Subsection (c) is repealed.

(5) A new subsection (d-1) is added to read as follows:

**ENROLLED ORIGINAL**

“(d-1) A person affected or aggrieved by an order, ruling, proceeding, or action of the Commissioner, or any person acting on behalf of the Commissioner, under this section may contest the validity of the same in any court of competent jurisdiction by appeal or through any other appropriate proceedings. In any proceeding or appeal, the Commissioner shall not be:

“(1) Taxed with any costs;

“(2) Required to give any supersedeas bond or security for costs or damages;

“(3) Subject to suit or action or liable for any judgment or decree for any damages, loss, or injury claimed by any person on any appeal taken; or

“(4) Required to make any deposit for costs or pay for any service to the clerks of any court or to any marshal of the United States, except as may be inconsistent with law.”.

(6) Subsection (e) is amended as follows:

(A) Strike the word “After” and insert the phrase “Notwithstanding” in its place.

(B) Strike the word “registration”.

(m) Section 16 (D.C. Official Code § 31-1131.16) is amended as follows:

**Amend  
§ 31-1131.16**

(1) Subsection (a) is amended by adding a new sentence at the end to read as follows:

“The Commissioner may waive any requirements, except for those imposed by section 8, for a nonresident license applicant with a valid license from the applicant’s home state if the applicant’s home state does not award nonresident licenses to residents of the District on the same basis.”.

(2) Subsection (b) is amended by adding a new sentence at the end to read as follows:

“The Commissioner may determine that a nonresident insurance producer’s satisfaction of his or her home state’s continuing education requirements for licensed insurance producers constitutes satisfaction of the District’s continuing education requirements if the nonresident producer’s home state does not recognize the satisfaction of its continuing education requirements imposed upon insurance producers from the District on the same basis.”.

(3) Subsection (c) is amended by striking the sentence “An applicant may qualify for a license under this act as a nonresident only if the applicant holds an equivalent license in his or her home state.”.

(n) Section 18 (D.C. Official Code § 31-1131.18) is amended by striking the word “necessary” and inserting the phrase “necessary or appropriate” in its place.

**Amend  
§ 31-1131.18**

Sec. 3. Section 40(a) of the Fire and Casualty Act, approved October 9, 1940 (54 Stat. 1063; D.C. Official Code § 31-2501.40(a)), is amended by striking the phrase “Any agent or broker licensed in the District may, upon payment of a license fee, as provided under section 41, be licensed” and inserting the phrase “A person may be licensed as a surplus lines insurance producer under the Producer Licensing Act of 2002, effective March 27, 2003 (D.C. Law 14-264; D.C. Official Code § 31-1131.01 *et seq.*),” in its place.

**Amend  
§ 31-2501.40**

**ENROLLED ORIGINAL**

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

---

Chairman  
Council of the District of Columbia

---

Mayor  
District of Columbia