



Hearing Officer's Report to Agency on Rulemaking Hearing

Date: 11/25/2019

To: Department of Consumer and Business Services

From: Van Pounds, Hearing Officer

Subject: In the matter of: Amendment of rules relating to the licensing of insurance adjusters and insurance consultants

Hearing Date: October 22, 2019
Hearing Location: Labor and Industries Building, Conf. Rm. E
Comment Period End: October 29, 2019

Background

Senate Bill 251 (2019) repealed the insurance adjuster and insurance consultant licensing provisions that were commingled in ORS Chapter 744, and separately re-enacted such statutory provisions. Rulemaking is necessary to implement such re-enacted provisions – which now mandate that the form and manner of application for adjuster and consultant licensing, and for issuance of a temporary adjuster permit, be specified by rule, and that the examinations that are acceptable for purpose of licensing be recognized by rule.

This rulemaking amends the current rules to specify the form and manner of making application for an adjuster or consultant license, or for a temporary adjuster permit, and recognizes certain examinations as adequately testing applicant qualifications, competence and knowledge. The rulemaking also makes technical corrections to the rules, by substituting reference to the 2019 Session Laws for the statutory provisions that have been repealed and re-enacted in such Session Laws.

This rulemaking is not anticipated to create any new fiscal or economic impact upon adjusters and consultants. If there is any fiscal impact due to the implementation of SB 251, it is attributable to the new licensing requirements, e.g., the requirement that adjusters and consultants report criminal charges or the imposition of administrative sanctions within thirty days, or the requirement that adjusters obtain a minimum number of continuing education hours for renewal of license, imposed by statute.

The proposed amendments to the rules, as well as the statement of need and fiscal impact, were vetted through an internal rulemaking advisory committee and through an external rulemaking advisory committee comprised of representatives of adjusters, consultants and insurers and

insurer, business and public interest groups. Committee members were receptive to the proposed amendments.

Notice of hearing, together with notice of proposed rulemaking and statement of need and fiscal impact, regarding the proposed amendment of OAR 836-071-0101, OAR 836-071-0113, OAR 836-071-0118, OAR 836-071-0120, OAR 836-071-0127, OAR 836-071-0130, OAR 836-071-0135, OAR 836-071-0140 and OAR 836-071-0145 was filed with the Secretary of State on September 26, 2019, and was published in the October 2019 Oregon Bulletin. Such notice was also mailed or distributed to adjuster, consultant and insurer representatives, to members of the Legislative Assembly and to other interested parties.

Hearing and Public Comments

The public hearing was conducted on October 22, 2019 as scheduled. No oral comments were received during the hearing. No further inquiry or written comment was received during the public comment period.

Recommendation

The hearing officer recommends that the rules be amended as proposed.

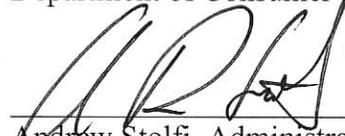
Van Pounds

Van Pounds
Hearing Officer

Upon due consideration of the foregoing, the Rulemaking Report and Recommendation are hereby adopted.

So adopted this 26th day of November, 2019.

Department of Consumer and Business Services



Andrew Stolfi, Administrator
Division of Financial Regulation



PERMANENT ADMINISTRATIVE ORDER

ID 10-2019

CHAPTER 836
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
INSURANCE REGULATION

FILED

11/27/2019 12:18 PM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Relating to the licensing of insurance adjusters and insurance consultants

EFFECTIVE DATE: 01/01/2020

AGENCY APPROVED DATE: 11/26/2019

CONTACT: Karen Winkel
503-947-7694
karen.j.winkel@oregon.gov

350 Winter St. NE
Salem, OR 97301

Filed By:
Karen Winkel
Rules Coordinator

RULES:

836-071-0101, 836-071-0113, 836-071-0118, 836-071-0120, 836-071-0127, 836-071-0130, 836-071-0135, 836-071-0140, 836-071-0145

AMEND: 836-071-0101

NOTICE FILED DATE: 09/26/2019

RULE SUMMARY: Amended to specify the form and manner of license application submissions, to make technical changes and to update references to statutory authority, i.e., to substitute references to the provisions of Oregon Laws 2019, chapter 151 (Senate Bill 251).

CHANGES TO RULE:

836-071-0101

Adjuster and Insurance Consultant License Application; Required Information ¶¶

~~(1) In addition to information required under ORS 744.001~~ An applicant for an adjuster or insurance consultant license, or for a temporary adjuster permit under ORS 744.555, shall submit an application in the form and manner set forth on the department's Division of Financial Regulation website at dfr.oregon.gov. In addition to information required under Oregon Laws 2019, chapter 151, sections 5 and 12, an applicant for an adjuster or insurance consultant license shall provide the following information relating to the applicant, as applicable on the application form:¶¶

(a) Date and place of birth;¶¶

(b) Duration of employment in insurance. Include the beginning and ending dates and the names and addresses of each employer and prior places of business in the insurance industry;¶¶

(c) All states and provinces of Canada in which the applicant currently holds a license to engage in the transaction of insurance, or has held such a license within ten years prior to the date of the application;¶¶

(d) Any assumed business name or alias ever used;¶¶

(e) Whether any firm or corporation of which the applicant is or has been a member, officer or director has ever filed for bankruptcy or been adjudged a bankrupt;¶¶

- (f) The Social Security or other federally-issued identification number of the applicant; and¶
- (g) If the applicant is a firm or corporation, the name of all current officers, directors and stockholders who own more than ten percent of any class of equity security of the applicant.¶
- (2) An applicant for a resident adjuster or insurance consultant license who is or has been licensed as a resident producer, adjuster or insurance consultant in another state or a province of Canada within five years prior to the date of application shall include with the application a statement that the resident license is inactive or no longer valid from the insurance department of the state or province in which the applicant is or was last authorized to transact insurance.¶
- (3) An applicant for a non-resident adjuster or insurance consultant license who is licensed as a resident producer, adjuster or insurance consultant in another state or province of Canada shall include with the application a statement of current licensure from the insurance department of the state or province in which the applicant was authorized to transact insurance as a resident licensee. The statement must indicate that the applicant has a current license for the class or classes of insurance that are being applied for in Oregon. The statement must be dated not earlier than the 90th day prior to the date of application. ~~The exemption to the adjuster licensing examination in ORS 744.535(2) applies only to non-resident adjuster licensing.~~¶
- (4) The ~~D~~irector may collect Social Security numbers submitted in applications under this rule and may use a Social Security number of an individual when authorized to do so for the purposes specified in this section. In addition to the governmental uses for which a Social Security number is required in an application under federal and state law, when authorized by the holder of a Social Security number, the ~~D~~irector may use a Social Security number for any of the following purposes:¶
- (a) As an identification number in maintaining records and reporting grades or examination scores;¶
- (b) For licensing purposes; and¶
- (c) For use by other government agencies to carry out their statutory duties.¶
- (5) An applicant may voluntarily allow the ~~D~~irector to use the Social Security number of the applicant, as the ~~D~~irector may request in the application form, for the purposes specified in section (4) of this rule. Refusal to voluntarily allow such use of the Social Security number will not result in the denial of any individual right, benefit or privilege provided by law. The use authorized by an applicant is in addition to uses authorized by state and federal law for which collection of Social Security numbers is mandatory.

Statutory/Other Authority: ORS 731.244, ~~ORS 744.00~~ Laws 2019, ch 151

Statutes/Other Implemented: ~~ORS 744.0~~ Laws 2019, ORS 744.00 ch 151, sections 5 and 12, ORS 744.5355

AMEND: 836-071-0113

NOTICE FILED DATE: 09/26/2019

RULE SUMMARY: Amended to recognize certain crop adjuster licensing examinations and to update references to statutory authority.

CHANGES TO RULE:

836-071-0113

Crop Insurance ¶¶

(1) The director designates crop insurance as a class of insurance, for the purpose of licensing crop adjusters, under the director's authority in ORS 744.531(3).¶

(2) ~~Effective Feb. 1, 2011, t~~To qualify as a crop adjuster, an applicant must pass an examination ~~given by the director~~ recognized by the director. The director recognizes crop adjuster examinations under OAR 836-071-0120(1), and examinations administered for certification under the crop adjuster proficiency program approved by the Risk Management Agency, an agency of the United States Department of Agriculture, as adequately testing the qualifications, competence and knowledge of crop adjuster license applicants.

Statutory/Other Authority: ORS 731.244, ORS 744

Statutes/Other Implemented: ORS 744.525, ORS 744.528, ORS 744.531

AMEND: 836-071-0118

NOTICE FILED DATE: 09/26/2019

RULE SUMMARY: Amended to make technical changes and to update references to statutory authority.

CHANGES TO RULE:

836-071-0118

Requirements That Must Be Completed Prior to Submitting Licensing Application ¶

~~On and after August 1, 2012, a~~All applicants for a license shall submit application materials electronically in accordance with directions provided on the ~~website of the Insurance Division of the Department of Consumer and Business Services~~department's Division of Financial Regulation website at dfr.oregon.gov. Before submitting an application for a license for consideration by the ~~D~~director, the applicant must complete the following steps in the application process:¶

- (1) Completion of all pre-examination training and experience requirements under OAR 836-071-0180;¶
- (2) Submission of fingerprints in accordance with OAR 836-071-0110;¶
- (3) Satisfactory passage of a licensing examination under OAR 836-071-0120 and 836-071-0127; and¶
- (4) Completion of a criminal history check as set forth in OAR 836-072-0001.

Statutory/Other Authority: ORS ~~744.058, 744.619,~~ 705.141, 731.244, 731.804, ~~744.00621, 744.003, 744.058, 744.535, 744.619, 744.62~~Or Laws 2019, ch 151

Statutes/Other Implemented: ORS ~~744.00158, 744.003619,~~ 744.058, ~~744.535, 744.619, 744.62621,~~ Or Laws 2019, ch 151

AMEND: 836-071-0120

NOTICE FILED DATE: 09/26/2019

RULE SUMMARY: Amended to recognize certain licensing examinations and to update references to statutory authority.

CHANGES TO RULE:

836-071-0120

Examination Procedure ¶

~~(1) To take an examination~~ the director recognizes the following examinations as adequately testing an applicant's qualifications, competence and knowledge of the categories of insurance business and classes of insurance that the applicant intends to transact under a license and the applicant's knowledge of duties under the Insurance Code and other laws of this state:¶

(a) Examinations that are administered for such purpose by the director; and¶

(b) Examinations that are administered in a substantially similar manner by other states that license adjusters of this state without examination. A listing of such examinations is set forth on the department's Division of Financial Regulation website at dfr.oregon.gov. ¶

(2) To take an examination administered by the director, an applicant must register with the examination administrator in advance of the examination.¶

~~(23)~~ The administrator of the examination may require photographic identification of the applicant at the examination site.¶

~~(34)~~ To be admitted to the examination site, an applicant must submit to the examination administrator either of the following as proof of satisfactory completion of required training:¶

(a) A signed certificate of insurance pre-examination training taken at a school registered under OAR 836-071-0190. The signed certificate must include the applicant's name, the classes of insurance for which training was received, the school name, the date on which the training was completed and the signature of a person authorized by the school to sign such certificates; or¶

(b) Proof of completion of the required pre-examination insurance training at an accredited college or university.

Statutory/Other Authority: ORS 731.244, 731.804, ~~744.001, 744.003,~~ ORS 744.058, 744.535~~619, 744.619, 744.6221,~~ Or Laws 2019, ch 151

Statutes/Other Implemented: ORS ~~744.001~~158, 744.003~~619, 744.058~~621, 744.5325, 744.619, 744.621~~528~~

AMEND: 836-071-0127

NOTICE FILED DATE: 09/26/2019

RULE SUMMARY: Amended to make technical changes and to update references to statutory authority.

CHANGES TO RULE:

836-071-0127

Examination Scores ¶

(1) For the purpose of obtaining authorization to transact a category or class of insurance, an applicant passes an examination for the class or category when the applicant obtains a score of 70 percent or higher, with the exception of a crop insurance adjuster examination, for which the minimum passing score is 80 percent.¶

(2) An applicant for a surplus lines licensee's license must ~~take a written examination approved by the Director and must achieve~~ achieve an examination score of 70 percent or higher.

Statutory/Other Authority: ORS 731.244, 731.804, ~~744.004619, 744.003621,~~ 744.066, 744.069, 744.075, ~~744.535, 744.619, 744.620~~ Or Laws 2019, ch 151

Statutes/Other Implemented: ~~ORS 744.535~~ Or Laws 2019, ch 151

AMEND: 836-071-0135

NOTICE FILED DATE: 09/26/2019

RULE SUMMARY: Amended to clarify license expiration date and to update references to statutory authority.

CHANGES TO RULE:

836-071-0135

Renewal of Expired Adjuster or Insurance Consultant License ¶

(1) When an expired license of an individual is renewed under ~~ORS 744.009~~regon Laws 2019, chapter 151, the renewed license expires biennially in the month of the individual's birthday anniversary.¶

(2) When an expired license of a person other than an individual is renewed under ~~ORS 744.009~~,the expiration date of the renewed license shall be the same as the expiration date of the initial licenseregon Laws 2019, chapter 151, the renewed license expires biennially in the month of initial license issuance anniversary.

Statutory/Other Authority: ORS 731.244

Statutes/Other Implemented: ~~ORS 744.009~~r Laws 2019, ch 151, sections 6 and 13

AMEND: 836-071-0140

NOTICE FILED DATE: 09/26/2019

RULE SUMMARY: Amended to update references to statutory authority.

CHANGES TO RULE:

836-071-0140

License Amendment ¶

An applicant for an amendment to an adjuster or insurance consultant license shall apply electronically in the manner provided for application for the initial license under ~~ORS 744.00~~Oregon Laws 2019, chapter 151.

Statutory/Other Authority: ORS 731.244, 731.804, ~~ORS 744.001619~~, 744.003, 744.535, 744.619, 744.62621, Or Laws 2019, ch 151

Statutes/Other Implemented: ~~ORS 744.001619~~, 744.003, 744.535, 744.619, 744.62621, Or Laws 2019, ch 151

AMEND: 836-071-0145

NOTICE FILED DATE: 09/26/2019

RULE SUMMARY: Amended to clarify license expiration date, to make technical changes and to update reference to statutory authority.

CHANGES TO RULE:

836-071-0145

Amended License Issuance ¶

(1) When the ~~D~~director determines that an applicant for an amendment to a license satisfies all applicable requirements, the ~~D~~director shall issue to the applicant a license incorporating the amendment.¶

(2) A license issued under this rule ~~expires on the same date that the preceding license would have expired, unless OAR 836-071-0130(5) applies to the preced~~retains the same expiration date as the license being license amended.

Statutory/Other Authority: ORS 731, 744

Statutes/Other Implemented: ~~744.007, 744.009~~Or Laws 2019, ch151