~~Indicates Matter Stricken~~

Indicates New Matter

AMENDED

May 4, 2017

**S. 463**

Introduced by Senators Cromer and Gambrell

S. Printed 5/4/17--H. [SEC 5/5/17 2:46 PM]

Read the first time March 21, 2017.

**A** **BILL**

TO AMEND SECTION 38‑1‑20, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS USED IN TITLE 38, SO AS TO INCLUDE CERTAIN FORMS OF DISABILITY INSURANCE IN THE DEFINITION FOR THE TERM “SURPLUS LINES INSURANCE”.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 38‑1‑20(56) of the 1976 Code, as last amended by Act 137 of 2016, is further amended to read:

“(56) ‘Surplus lines insurance’ means insurance in this State of risks located or to be performed in this State, permitted to be placed through a licensed broker, or a licensed broker as provided in Section 38‑45‑10(8)(b)(ii), with a nonadmitted insurer eligible to accept the insurance, other than reinsurance, wet marine and transportation insurance, insurance independently procured, and life and health insurance and annuities. Excess and stop‑loss insurance coverage upon group life, accident, and health insurance or upon a self‑insured’s life, accident, and health benefits program and disability insurance in excess of any benefit limit available from an admitted insurer may be approved as surplus lines insurance.”

SECTION 2. Section 38‑43‑100 of the 1976 Code, as last amended by Act 194 of 2016, is further amended to read:

“Section 38‑43‑100. (A) Business may not be done by the applicant except following issuance of a producer’s license, and the license may not be issued until the director or his designee has determined that the applicant is qualified as an insurance producer, generally, and is particularly qualified for the line of business in which the applicant proposes to engage. The department shall promulgate regulations setting forth qualifying standards of producers as to all lines of business and shall require the producer applicant to stand a written examination. For the purpose of interstate reciprocity, the department shall identify by bulletin which limited lines insurance are approved in South Carolina and which are exempt from examination. A bank, finance company, or other company handling credit transactions operating in this State and utilizing one or more credit life or accident and health or credit property producers in a particular geographical area who are licensed without having taken the written examination is required to have readily available at least one credit life or accident and health or credit property producer to answer customers’ questions concerning credit life, credit accident and health insurance, or credit property, or any combination of these.

(B) A resident individual applying for an insurance producer license shall pass an examination. The examination must 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 this State. The examination required by this section must be developed and conducted under regulations prescribed by the director or his designee.

(C) The director or his designee may make arrangements, including contracting with an outside testing service, for administering licensing examinations.

(D) Each individual applying for a licensing examination shall remit a nonrefundable examination fee as required by the licensing exam administrator.

(E) An individual who fails to appear for the examination as scheduled or fails to pass the examination, shall reapply for an examination and remit all required fees and forms before being rescheduled for another examination.

(F) A person applying for a resident insurance producer license or a person applying on behalf of the applicant shall make application to the director or his designee on the Uniform Application and declare under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the applicant’s knowledge and belief. Before approving the application, the director or his designee shall find that the applicant:

(1) is at least eighteen years of age;

(2) is a person of good moral character and has not been convicted of a felony or any crime involving moral turpitude within the last ten years that is a ground for denial, suspension, or revocation as provided for in Section 38‑43‑130;

(3) has paid the fees provided for in Section 38‑43‑80; and

(4) has successfully passed the examination or examinations for the line or lines of insurance for which the person has applied.

(5) ~~Effective January 1, 2017,~~ Before a license is issued to an applicant or is renewed permitting him to act as a resident producer, the applicant shall comply with the licensing and renewal requirements set for in this section and by regulation. In addition to those licensing requirements, the applicant shall:

(a) furnish a complete set of his fingerprints to the director or his designee; ~~and~~

(b) undergo a state criminal records check, supported by his fingerprints, by the South Carolina Law Enforcement Division (SLED) and a national criminal records check, supported by his fingerprints, by the Federal Bureau of Investigation (FBI). The results of these criminal records checks must be reported to the department. SLED and the FBI are authorized to retain the fingerprints for use in identification purposes including, but not limited to, unsolved latent prints. SLED and the FBI are further authorized to provide the department with current and future information regarding fingerprints stored including arrest, convictions, dispositions, warrants, and other information available to the FBI including civil and criminal information. The department shall keep all information pursuant to this section privileged, in accordance with applicable state and federal guidelines. The cost associated with the criminal history records checks must be borne by the applicant. The applicant’s fingerprints must be certified by a law enforcement officer authorized by SLED~~.~~; and

(c) provide a complete set of fingerprints and the required fees and information in accordance with this subsection. Failure to provide the complete set of fingerprints with the required fees constitutes grounds for denial of an application for licensure; however, the director may waive the fingerprinting requirements of this subsection if it is impossible for the applicant to provide fingerprints due to a medically certified physical injury.

(G)(1) An applicant for renewal of a current resident insurance producer license is exempt from the requirement set forth in subsection (F)(5) if the applicant complies with the requirements of this section and:

(a) has previously provided and has on file with the appropriate agency of the State an accessible, current, complete and legible set of fingerprints submitted as part of an earlier application for a license or for renewal of a license which was granted or approved; and

(b) all licenses issued to the applicant by the department are in good standing on the date of the subsequent application.

(2) A resident producer who has allowed the license to lapse for failure to comply with the continuing education requirements set forth in Section 38‑43‑106 is not required to submit new fingerprint records if the applicant:

(a) has applied to reinstate the same license within six months from the compliance deadline;

(b) has met the continuing insurance education requirements; and

(c) has paid a penalty fee set forth by the director or his designee in full.

(3) The director may require a complete set of fingerprints and payment of all applicable fingerprint processing fees from an applicant for licensure or renewal if the previously submitted set of fingerprints is not usable for obtaining a criminal history record check for any reason.

~~(G)~~(H) The individual’s producer license must contain the licensee’s name, address, personal identification number, the date of issuance, the line or lines of authority, and other information the director or his designee considers necessary.

~~(H)~~(I) An agency acting as an insurance producer is required to obtain an insurance producer license. Application must be made using the Uniform Business Entity Application. Before approving the application, the director or his designee shall find that:

(1) the agency has paid the fees as prescribed by Section 38‑43‑80; and

(2) the agency has designated a licensed producer or other person responsible for the business entity’s compliance with the insurance laws, rules, and regulations of this State.

~~(I)~~(J) The director or his designee may require any documents reasonably necessary to verify the information contained in an application.

~~(J)~~(K) The agency’s license must contain the licensee’s name, address, personal identification number, the date of issuance, and other information the director or his designee considers necessary.

~~(K)~~(L) Each insurer that sells, solicits, or negotiates any form of credit insurance shall provide to each individual whose duties include selling, soliciting, or negotiating credit insurance, a program of instruction that has been filed with the director or his designee.”

SECTION 3. This act takes effect upon approval by the Governor.

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