

# State of Delaware



DONNA LEE H. WILLIAMS  
INSURANCE COMMISSIONER

841 SILVER LAKE BLVD.  
DOVER, DELAWARE 19904-2465  
(302) 739 - 4251  
FACSIMILE (302) 739 - 5280

## Department of Insurance

### AGENTS' BULLETINS NO. 3

#### ACTING AS AGENT WITHOUT LICENSE; INSURER'S RESPONSIBILITY EXEMPTIONS FROM RULE

Original No. 74-15  
November 22, 1974  
Amended April 15, 1992

#### I. LICENSING REQUIREMENT:

It has come to the Department's attention that a number of agencies and agents in this State are employing unlicensed secretaries and/or assistants in the conduct of their insurance business or using telemarketers inappropriately. A review of this practice has convinced the Department that in some instances, these unlicensed assistants are in fact soliciting for insurance and advising clients on insurance matters. These practices are in contravention of the Delaware Insurance Laws.

Title 18 Del. C., Chapter 17, requires that an insurance license is required for all persons who "...solicit applications or negotiate for policies of insurance..." (18 Del. C., Section 1702). The statute requires that Delaware residents applying for initial insurance coverage have the protection afforded by the advice and assistance of an licensed agent who has demonstrated his/her professional competence by an examination, special education or other qualification.

Quite clearly, this protection is not offered in the four instances described below:

- (1) An unlicensed employee who assists an applicant in completing an insurance application when the client has not been interviewed and advised by a licensed agent.
- (2) When the agent has not interviewed and advised the client, and an unlicensed employees accepts an initial insurance premium and issues a receipt stating or implying insurance coverage has been instigated.
- (3) An unlicensed employee who accepts or assists a client in preparing application for Assigned Risk Coverage where the applicant has not been interviewed and advised by a licensed agent.
- (4) An unlicensed telemarketer who goes beyond informing the caller of the availability of a product and advises the caller of the specific benefits and/or costs of the product.

#### II. REMEDY SPECIFIED:

Licensed agent/brokers who have made a practice of assigning such duties to their unlicensed employees must insure that such employees qualify for and obtain an insurance license prior to undertaking or continuing these duties.

#### III. PENALTY:

It is the Department's intention to insure that every Delaware applicant applying for insurance coverage does in fact receive the protection afforded by the cited provisions of the Delaware Insurance Code. To insure this protection the Delaware Statutes shall be rigidly enforced. Detected violators shall be ordered to appear for hearing to show cause why their insurance license should not be revoked. If the charges are found to be sustained by hearing, violators will be subject to the penalties of Title 18, Section 1733, (Revocation, Suspension of License and/or \$25 to \$1,000 fine).

**IV. INSURER'S RESPONSIBILITY:**

Each insurer transacting business in Delaware will publicize the requirements of this Bulletin and to take such action as required to insure that the practice of using unlicensed employees to advise Delaware applicants regarding the purchase of insurance coverage is immediately discontinued.

**V. EXEMPTIONS EXPLAINED:**

This Bulletin is not intended to require licensing for those personnel specifically exempted by the Delaware Insurance Code so long as the individuals who perform exempted duties do not advise Delaware residents regarding the purchase of insurance. The exemption provisions are interpreted to include such tasks as:

- (a) Assisting a client in the preparation of an insurance application in conjunction with and under the direct supervision of a licensed agent;
- (b) Routine processing of applications;
- (c) Preparing and processing notices of renewal or non-renewal to current policyholders;
- (d) Posting changes to existing policies;
- (e) Receiving payments;
- (f) Similar routine administrative duties; and
- (g) Notifying prospective insurers of the availability of an insurance program or product, but not the advisability of the purchase of the product by any particular potential insured.