

CHAPTER 2795

DEPARTMENT OF COMMERCE

INSURANCE AGENTS

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2795.0100 DEFINITIONS.

Subpart 1. **Scope.** As used in this chapter, the terms defined in this part shall have the meanings given them.

Subp. 2. **Agent.** "Agent" means an insurance agent licensed under Minnesota Statutes, chapter 60K.

Subp. 3. **Brokerage business.** "Brokerage business" means business transacted as provided in Minnesota Statutes, section 60K.08.

Subp. 4. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Commerce.

Subp. 5. **Licensee.** "Licensee" means an individual or an agency licensed under Minnesota Statutes, chapter 60K.

Subp. 6. **Placing agent.** "Placing agent" means a licensed and appointed agent of an insurer through whom an application for insurance is submitted to the insurer on behalf of a soliciting agent who was not appointed by that insurer at the time the application was solicited.

Subp. 7. **Soliciting agent.** "Soliciting agent" means an agent who sells or attempts to sell insurance to a person.

Subp. 8. **Supervising agent.** "Supervising agent" means an agent or general agent who contracts with, employs or engages one or more other agents to solicit applications for insurance, or to otherwise act as insurance agents on the supervising agent's behalf. In the case of an agency required to be licensed under Minnesota Statutes, chapter 60K, the supervising agents, if not specifically designated, shall be the licensed officers of the corporate agency, or the partners of a partnership agency.

Statutory Authority: *MS s 60A.17*

History: *9 SR 175*

2795.0200 AUTHORITY AND SCOPE.

This chapter is promulgated pursuant to the authority of Minnesota Statutes, chapter 60K, and is intended to govern the interest of all licensed insurance agents in this state.

Statutory Authority: *MS s 60A.17*

History: *9 SR 175*

2795.0300 LOANS FROM CLIENTS.

Subpart 1. **Requirements.** No agent shall solicit or accept a loan from an individual with whom the agent came into contact in the course of the agent's business, unless the

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loan agreement or note is in writing, the lender is provided with a fully executed copy of the agreement or note at the time the loan is made, and the terms of the loan are lawful.

Subp. 2. **Unfair, dishonest, and unconscionable loans.** Notwithstanding subpart 1, no agent shall solicit or accept a loan under dishonest, unfair, or unconscionable circumstances from an individual with whom the agent came into contact in the course of the agent's business. In determining whether a particular loan was solicited or accepted under dishonest, unfair, or unconscionable circumstances, the commissioner must consider the following:

- A. the prior relationship between the agent and the lender;
- B. the lender's age, mental state, and capacity;
- C. the terms of the loan, including the amount, duration, and rate of interest, and the agent's compliance with those terms;
- D. provisions for collateral or security;
- E. the lender's income and net worth;
- F. the involvement or lack of involvement of a family member of the lender, or some other neutral third party, in the negotiation of the loan;
- G. any prior history of unfair treatment of the lender which the agent knew or should have known about;
- H. indications of high pressure solicitation, coercion, intimidation, or undue influence by the agent in securing the loan;
- I. the agent's representations regarding the need for or intended use of the loan; and
- J. any other factors which reflect on whether the loan was dishonest, unfair, or unconscionable.

Subp. 3. **Records required of agent.** An agent who accepts or has an outstanding loan from an individual with whom the agent came into contact in the course of the agent's business, must immediately compile and maintain for at least six years after the loan has been fully repaid, a list of the individuals from whom the agent has borrowed money, together with all documentation relating to the loans and the circumstances under which each was made.

Statutory Authority: *MS s 60A.17*

History: *9 SR 175*

2795.0400 DELIVERY OF POLICIES.

Policies, certificates, or other evidence of insurance which are received by an agent from an insurer for delivery to an insured must be delivered or mailed to the insured by the agent within 30 working days of the agent's receipt, unless the insured agrees in writing that the agent may retain them.

Statutory Authority: *MS s 60A.17*

History: *9 SR 175*

2795.0500 RECEIPTS FOR MATERIALS.

An agent who takes possession of an insured's or a potential insured's insurance policies, certificates, or other documents pertaining to existing or pending insurance, must leave a written receipt for those materials at the time the agent receives the materials. The receipt must contain an itemized list of the materials received, the agent's name, and the address and telephone number of the agency or other place where the agent can be contacted. The receipt must be dated and signed by the agent.

Statutory Authority: *MS s 60A.17*

History: *9 SR 175*

2795.0600 OTHER LICENSES.

It is an untrustworthy practice within the meaning of Minnesota Statutes, section 60K.11, subdivision 1, for an insurance agent to engage in any unfair, deceptive, dishonest, untrustworthy, or fraudulent conduct which leads to the revocation of a license which the agent holds under Minnesota Statutes, chapter 80A or 82.

Statutory Authority: *MS s 60A.17*

History: *9 SR 175*

2795.0700 CRIMINAL CONVICTIONS; DISCIPLINARY ACTIONS IN OTHER STATES.

Subpart 1. **Report of conviction.** An agent who is convicted of a felony, gross misdemeanor, or a misdemeanor involving moral turpitude must report the conviction to the commissioner within ten working days of the conviction.

Subp. 2. **Report of disciplinary action.** An agent whose insurance, securities, or real estate license is suspended or revoked in another state, or who has been ordered to pay a civil penalty because of conduct in the insurance, securities, or real estate industries in another state, must report the disciplinary action to the commissioner within ten working days of the effective date of the action.

Statutory Authority: *MS s 60A.17*

History: *9 SR 175*

2795.0800 DUTIES OF SUPERVISING AGENTS.

Subpart 1. **Agents' behavior and licensing.** A supervising agent shall have the duty to ensure that contracted, employed, or engaged agents:

- A. are properly licensed in the lines of insurance in which they do business;
- B. promptly remit all premiums and return premiums, refunds, claim settlements, or other money or things of value in the agents' possession obtained as a result of an insurance transaction and due and payable to any person, firm, or insurer; and
- C. comply with laws and rules of the Department of Commerce.

Subp. 2. **Establish written procedures.** A supervising agent must establish, maintain, and enforce written procedures which will ensure proper supervision of the activities of each agent and compliance with insurance laws and rules.

Subp. 3. **Account examination.** Every supervising agent must conduct an examination for each agent of those client accounts which are within the scope of the supervisor's responsibility. The examinations must be conducted as often as is necessary for the supervising agent to discharge supervisory responsibilities.

Statutory Authority: *MS s 60A.17*

History: *9 SR 175; 17 SR 1279*

2795.0900 [Repealed, L 1989 c 258 s 14]**2795.1000 HIGH STANDARDS OF COMMERCIAL HONOR.**

Every agent must observe high standards of commercial honor and just and equitable principles of trade in the conduct of the agent's insurance business.

Statutory Authority: *MS s 60A.17*

History: *9 SR 175*

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2795.1100 REGISTERED OFFICE FOR RESIDENT AGENTS.

Every agent who is licensed as a resident agent must maintain a registered office for service of process in this state. The address of the office must be specified on all license applications and renewal applications.

Statutory Authority: *MS s 60A.17*

History: *9 SR 175*

2795.1200 LICENSE DISPLAY AND USE.

A license must be displayed in the licensee's office in a place where it can readily be viewed and inspected.

Any written or oral advertisement or representation which refers to licensing, used by a licensee, must contain a disclaimer that the reference to licensing is not an endorsement, sponsorship, or implied endorsement or sponsorship of the licensee or its products, by the state of Minnesota, the Department of Commerce, or any other state agency.

Statutory Authority: *MS s 60A.17*

History: *9 SR 175*

2795.1300 RECEIPT OF CLIENT FUNDS.

An agent who receives funds from a client in connection with an insurance transaction receives and holds those funds in a fiduciary capacity.

An agent holding funds of a client must, each month, provide to the client an itemized statement showing the amount of money held.

Statutory Authority: *MS s 60A.17*

History: *9 SR 175*

2795.1400 MANDATORY FINANCIAL RECORDS.

Subpart 1. **Type of records.** Every agent and agency must keep a record of all funds received for or from clients, including cash, notes, savings certificates, uncashed or uncollected checks, or other similar instruments. Insurers represented by exclusive agents may compile and maintain the financial records required by this part on their agents' behalf. The records must set forth the date funds were received, from whom received, the amount received, the date of deposit of the funds into the business account of the agent or agency, and the monthly balance of the account in which the funds are deposited. Each agent and agency must maintain a cash receipts journal and a cash disbursements journal, or similar records, in accordance with generally accepted accounting principles.

Subp. 2. **Separate records.** Each agent and agency must keep a separate record for each client or transaction, accounting for all funds which have been deposited in the agent's business account. These records must set forth the information sufficient to identify the transaction and the parties thereto. At a minimum, each record must set forth:

- A. the date funds are deposited;
- B. the amount deposited;
- C. the date of each related disbursement;
- D. the check number of each related disbursement;
- E. the amount of each related disbursement; and
- F. a description of each disbursement.

Subp. 3. **Examination of records.** All records must be maintained for at least six years, and must be available for examination by the commissioner or a designee in accordance with Minnesota Statutes, section 60A.031.

Statutory Authority: *MS s 60A.17*

History: *9 SR 175*

2795.1500 MANDATORY COMPLAINT RECORDS.

Every agent and agency must compile and maintain a separate complaint file for each agent against whom a complaint, grievance, or allegation is made. The file must contain all written notes, reports, correspondence, or other documents made or received by an agent or agency, relating to customer grievances or allegations that an agent, agency, or person associated with an agent or agency has engaged in any unfair, false, misleading, dishonest, fraudulent, untrustworthy, coercive, or financially irresponsible practice, or has violated any insurance law or rule. The agent or agency must maintain the records for at least six years after the date of the complaint.

Statutory Authority: *MS s 60A.17*

History: *9 SR 175*

2795.1600 TERMINATION OF APPOINTMENTS OR CONTRACTS.

An insurer or agency which terminates an agent's appointment, or its contract or association with an agent based entirely or in part on a complaint or alleged violation of law, or with knowledge of an alleged violation of law, including, but not limited to, the failure to remit premiums, must, within ten working days of the termination, forward to the commissioner a written statement of the reason for the termination. The statement must include the names, addresses, and, if available, telephone numbers of all persons having knowledge of the matter; copies of any applications, checks, or other documents relating to the complaint or alleged violation which are in the insurer's or agency's possession or control; copies of all statements or affidavits taken from any person in connection with the complaint or allegations; and a current statement of the agent's account with the insurer or agency.

Statutory Authority: *MS s 60A.17*

History: *9 SR 175*

2795.1700 REFUNDS.

An agent who receives a request for cancellation of a policy must make the refund or initiate the refund procedures with the insurer, within ten days of the agent's receipt of the request. An agent who receives a refund from an insurer for the account of, or for delivery to, an insured or former insured, must deliver or mail the refund, or cause it to be delivered or mailed to the insured or former insured within five days of receipt.

Statutory Authority: *MS s 60A.17*

History: *9 SR 175*

2795.1800 INSURANCE IN CONNECTION WITH LOAN.

No agent shall misrepresent the necessity for obtaining insurance in connection with a loan, nor the terms of such insurance.

Statutory Authority: *MS s 60A.17*

History: *9 SR 175*

2795.1900 PENALTIES.

Violations of this chapter subject the violator to the penalties described in Minnesota Statutes, sections 72A.22 to 72A.29.

Statutory Authority: *MS s 60A.17*

History: *9 SR 175*

2795.2000 MINORS AS AGENTS AND SOLICITORS.

Subpart 1. **Licenses.** Insurance agents' licenses will not be issued to minors.

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Subp. 2. **Solicitors.** In the absence of other objections, minors will be licensed as solicitors upon proper application.

Statutory Authority: *MS s 60A.17*

History: *9 SR 175*