

2. The alteration of, or any change to, any such form approved by the department is prohibited. Any such altered or changed form shall be submitted to the department as a new filing, and shall comply with all provisions of this Section applicable to a new filing. This Subsection shall not apply to typographical corrections and format improvements that do not affect the terms, provisions or clarity of the product.

3. A change of company name or logo, a change of address, and changes in listed officers do not require a new filing of forms when the department is otherwise properly notified of such change, and a copy of such notification is maintained on file by the insurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, *Directive* 169, R.S. 22:620 and R.S. 22:621.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2548 (December 2002), amended LR 33:108 (January 2007).

§10115. Penalties

A. Pursuant to R.S. 22:1462.1, "False or Fraudulent Material Information," in accordance with all provisions thereof, and specifically applicable to all documents required by this regulation.

1. It shall be unlawful for any person to intentionally and knowingly supply false or fraudulent material information pertaining to any document or statement required by the department.

2. Whoever violates the provisions of this Section shall be imprisoned, with or without hard labor, for not more than five years, or fined not more than \$5,000, or both.

B. Pursuant to R.S. 22:1214(12), in accordance with all provisions thereof, any violation of a prohibitory provision of this regulation shall constitute an unfair trade practice, and, after proper notice and hearing as specified by statute, may subject the insurer and its officer(s) or representative(s) to:

1. The provisions of R.S. 22:1217, including:

a. payment of a monetary penalty of not more than \$1,000 for each and every act or violation, but not to exceed an aggregate penalty of \$100,000 unless the person knew or reasonably should have known he was in violation of applicable law, in which case the penalty shall be not more than \$25,000 for each and every act or violation, but not to exceed an aggregate penalty of \$250,000 in any six-month period; and

b. suspension or revocation of the license of the person if he knew or reasonably should have known he was in violation of applicable law.

2. The provisions of R.S. 22:1217.1, including:

a. a monetary penalty of not more than \$25,000 for each and every act or violation, not to exceed an aggregate of \$250,000; and

b. suspension or revocation of such person's license or certificate of authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, *Directive* 169, R.S. 22:620, R.S. 22:621 and R.S. 22:622.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2552 (December 2002), amended LR 33:110 (January 2007).

§10117. Severability

A. If any provision of this regulation, or its application to any person or circumstance, is held invalid, such determination shall not affect other provisions or applications of this regulation which can be given effect without the invalid provision or application, and to that end, the provisions of this regulation are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, *Directive* 169, R.S. 22:620, R.S. 22:621 and R.S. 22:622.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2552 (December 2002), amended LR 33:111 (January 2007).

§10119. Effective Date

[formerly Section 10117]

A. This regulation became effective January 1, 2003; however, the amendments to this regulation will become effective upon final publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, *Directive* 169, R.S. 22:620, R.S. 22:621 and R.S. 22:622.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2552 (December 2002), amended LR 33:111 (January 2007).

Chapter 103. Regulation 79—Limited Licensing for Motor Vehicle Rental Companies

§10301. Purpose

A. The purpose of this regulation is:

1. to implement the qualifications and procedures for licensing motor vehicle rental or leasing companies to sell or offer insurance in conjunction with the rental of a vehicle;

2. to govern the transactions of selling travel or automobile related products or coverage in conjunction with and incidental to the rental of vehicles.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:2112, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:932 (April 2005).

§10303. Definitions

A. For the purposes of this regulation the following terms shall have the meaning ascribed herein, unless the context clearly indicates otherwise.

Commissioner—the Commissioner of Insurance.

Department—the Department of Insurance.

Detailed Plan of Operation or Plan—a comprehensive overview of the licensee's rental business pursuit in so far as it is regulated by the Department of Insurance. This

information will supplement the restricted license application and will be on forms provided by the department.

Limited Licensee—a person or entity authorized to sell certain coverage relating to the rental of vehicles pursuant to the provisions of Part XVII of Chapter 2 of Title 22 of the Louisiana Revised Statutes of 1950.

Part—Part XVII of Chapter 2 of Title 22 of the Louisiana Revised Statutes of 1950, comprised of R.S. 22:2101 through 2112.

Rental Agreement—any written agreement setting forth the terms and conditions governing the use of a vehicle provided by the rental company for rental or lease.

Rental Company—any person or entity in the business of providing primarily private passenger vehicles to the public under a rental agreement for a period not to exceed 90 days.

Rental Period—the term of the rental agreement.

Renter—any person or entity obtaining the use of a vehicle from a rental company under the terms of a rental agreement for a period not to exceed 90 days.

Vehicle or Rental Vehicle—a motor vehicle of the private passenger type including passenger vans, minivans and sport utility vehicles, and of the cargo type including but not limited to cargo vans, pickup trucks and trucks with a gross vehicle weight of less than 26,000 pounds and which do not require the operator to possess a commercial driver's license.

a. Pursuant to R.S. 32:408B, Classes of licenses, this provision includes as a "vehicle" or "rental vehicle" those motor vehicles which require the operator to possess a Class "D" Chauffeur's License.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:2112, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:932 (April 2005).

§10305. Issuance of Limited License—in General

A. Prior to approval, an applicant for a limited license issued to a motor vehicle rental company or franchisee of a motor rental company shall at a minimum:

1. submit an application on forms prescribed by the commissioner;
2. pay the applicable fee required by this Part;
3. provide a detailed plan of operation pursuant to §10307.B of this regulation;
4. provide an insurance sales material disclosure pursuant to §10307.C of this regulation;
5. provide a training program or syllabus and train all employees pursuant to §10307.D of this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:2112, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:932 (April 2005).

§10307. Limited Licensing; Application, Supplements, Requirements

A. Applicants for a rental company limited license shall apply to the Commissioner of Insurance on forms established by the commissioner. The application may request any information deemed necessary by the commissioner, including but not limited to the following:

1. the applicant's corporate, firm, or other business entity name, the business address and telephone number of the principal place of business and the business address and telephone number of each additional location at which the applicant will transact business under the license;
2. all assumed business names and other names under which the applicant will engage in business under the license;
3. the names of the employees, its agents, members, partners, officers, directors and stockholders of the applicant personally engaged in this state in soliciting or negotiating insurance in conjunction with the rental of a vehicle;
4. a declaration by the applicant that the applicant:
 - a. is competent and trustworthy;
 - b. intends to act in good faith;
 - c. has a good business reputation;
 - d. has the appropriate experience, training or education that qualifies the applicant for the license applied for;
 - e. has or will train all employees to be involved in the sale, offering, or negotiation of coverage prior to their conducting such activities with members of the public;
5. the application shall be signed by an officer of the applicant.

B. The application for this limited license shall be supplemented by a detailed plan of operation to be submitted on forms prescribed by the commissioner, which shall request information deemed necessary, including but not limited to:

1. name of any appointing insurer(s), if applicable;
2. the lines of business the applicant intends to write; including:
 - a. personal accident insurance;
 - b. liability;
 - c. personal effects;
 - d. roadside assistance;
 - e. emergency sickness; or
 - f. any other travel or auto related coverage in connection with or incidental to rental transaction;

3. a list of all business locations within Louisiana from which business will be conducted under the license.

C. The application for this limited license shall be supplemented with a copy of the licensee's proposed Insurance Sales Material Disclosure as required by the Louisiana Insurance Code, which at a minimum shall:

1. be received by the department prior to its use and be subject to approval by the department;
2. summarize clearly and correctly, the material terms of coverage offered to renters, including the identity of insurer(s), if applicable;
3. disclose that policies offered by the rental company may provide a duplication of coverage already provided by a renter's personal automobile insurance policy, homeowner's insurance policy, personal liability insurance policy, or other source of coverage;
4. state that purchasing the kinds of coverage specified in this Part is not required when renting a vehicle;
5. describe the claims filing process.

D. The application for this limited license shall be supplemented with a copy of the licensee's proposed training program or syllabus as required by the Louisiana Insurance Code. The training program required by this Part shall:

1. be received by the department prior to its use and be subject to approval by the department;
2. include basic instruction about the kinds of coverage offered under the license;
3. include the following items:
 - a. renters of vehicles are not required to purchase the coverage offered through the licensee as a condition of renting a vehicle;
 - b. renters must be informed that coverage offered by the licensee may duplicate existing coverage of the renter and that the renter should consult with his or her insurance producer if the renter has any questions about existing coverage;
 - c. the rental period of the rental agreement can not exceed 90 consecutive days;
 - d. claims procedures;
 - e. the identity of any insurance company providing coverage offered by the licensee;
 - f. evidence of coverage in the rental agreement must be disclosed to every renter who elects to purchase such coverage;
 - g. employees of the licensee are not authorized to evaluate a renter's existing coverage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:2112, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:932 (April 2005).

§10309. Renewals

A. A limited license expires on the last day of the month in which the second anniversary of the initial issuance occurs. Thereafter, the limited license shall expire on the second anniversary following each renewal.

B. Prior to expiration, the licensee shall notify the commissioner of its intention to continue the license on forms provided by the commissioner and shall submit the applicable renewal fee as set forth in this Part. Late filings will be assessed a late fee as authorized by R.S. 22:1078.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:2112, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:933 (April 2005).

§10311. Limitations of License

A. The rental company licensed pursuant to this Part may offer or sell insurance only in connection with and incidental to the rental of vehicles, whether at the rental office or by pre-selection of coverage in a master, corporate, individual, or group rental agreement, in any of the following general categories:

1. personal accident insurance covering the risks of travel including but not limited to accident and health insurance that provides coverage, as applicable, to renters and other rental vehicle occupants for accidental death or dismemberment and reimbursement for medical expenses resulting from an accident that occurs during the rental period;
2. liability insurance that provides coverage, as applicable, to renters and other authorized drivers of rental vehicles for liability arising from the operation of the rental vehicle;
3. personal effects insurance that provides coverage, as applicable, to renters and other vehicle occupants for the loss of or damage to personal effects that occurs during the rental period;
4. roadside assistance and emergency sickness protection programs;
5. any other travel or automobile-related coverage that a rental company offers in connection with and incidental to the rental of vehicles.

B. A limited license issued under this Part shall also authorize any employee of the limited licensee to act individually on behalf, and under the supervision of, the limited licensee with respect to the kinds of coverage specified in this Part.

1. The limited licensee shall keep a list of all persons who are authorized or who are selling insurance as provided herein. The list shall be produced to the commissioner within two weeks of written demand from the commissioner.

C. No limited licensee under this Part shall advertise, represent, or otherwise hold itself or any of its employees or agents out as licensed insurers or insurance producers.

1. The sale of insurance not in conjunction with a rental transaction is prohibited by the provisions of Part XVII of Chapter 2 of Title 22 of the Louisiana Revised Statutes of 1950, §2101 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:2112, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:933 (April 2005).

§10313. Insurance Charges

A. Notwithstanding any other provision of this Part or any rule adopted by the commissioner, a limited licensee pursuant to Part XVII of Chapter 2 of Title 22 of the Louisiana Revised Statutes of 1950, §2101 et seq., shall not be required to treat monies collected from renters purchasing such insurance when renting vehicles as funds received in a fiduciary capacity, provided that the charges for coverage shall be itemized and be ancillary to a rental transaction. The sale of insurance not in conjunction with a rental transaction is prohibited by the provisions of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:2112, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:934 (April 2005).

§10315. Penalties for Violations

A. In the event that any provision of Part XVII of Chapter 2 of Title 22 of the Louisiana Revised Statutes of 1950, §2101 et seq., or other applicable provision of this Title is violated by a limited licensee, the commissioner may revoke, suspend, refuse to renew, or levy a fine not to exceed \$1,000 for each violation, up to \$100,000 in the aggregate for all violations in a calendar year per limited licensee, or impose such other penalty as the commissioner may deem necessary or convenient to carry out the purpose of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:2112, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:934 (April 2005).

§10317. Applicability

A. All limited licensees under Part XVII of Chapter 2 of Title 22 of the Louisiana Revised Statutes of 1950, §2101 et seq shall be subject to all other applicable provisions of this Title unless specifically exempted by Part XVII of Chapter 2 of Title 22 of the Louisiana Revised Statutes of 1950, §2101 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:2112, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 31:934 (April 2005).

§10319. Severability

A. If any provision or item of this regulation, or the application thereof, is held to be invalid, such invalidity shall not affect other provisions, items, or applications of the

regulation, which can be given effect without the invalid provisions, item, or application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:2112, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 31:934 (April 2005).

Chapter 105. Regulation Number 83—Domestic Insurer's Use of Custodial Agreements and the Use of Clearing Corporations

§10501. Definitions

A. When used in this regulation, the term:

Agent—a national bank, state bank, trust company or broker/dealer that maintains an account in its name in a clearing corporation or that is a member of the Federal Reserve System and through which a custodian participates in a clearing corporation, including the Treasury/Reserve Automated Debt Entry Securities System (TRADES) or treasury direct systems, except that with respect to securities issued by institutions organized or existing under the laws of a foreign country or securities used to meet the deposit requirements pursuant to the laws of a foreign country as a condition of doing business therein, *agent* may include a corporation that is organized or existing under the laws of a foreign country and that is legally qualified under those laws to accept custody of securities.

Clearing Corporation—a corporation, as defined in Section 8-102(a)(5) of the Uniform Commercial Code, that is organized for the purpose of effecting transactions in securities by computerized book-entry, except that with respect to securities issued by institutions organized or existing under the laws of a foreign country or securities used to meet the deposit requirements pursuant to the laws of a foreign country as a condition of doing business therein, *clearing corporation* may include a corporation that is organized or existing under the laws of a foreign country and which is legally qualified under those laws to effect transactions in securities by computerized book-entry. Clearing corporation also includes "Treasury/Reserve Automated Debt Entry Securities System" and "Treasury Direct" book-entry securities systems established pursuant to 31 U.S.C. §3100 et seq., 12 U.S.C. pt. 391 and 5 U.S.C. pt. 301.

Custodian—

a. a national bank, state bank or trust company that shall at all times during which it acts as a custodian pursuant to this regulation be no less than adequately capitalized as determined by the standards adopted by United States banking regulators and that is regulated by either state banking laws or is a member of the Federal Reserve System and that is legally qualified to accept custody of securities in accordance with the standards set forth below, except that with respect to securities issued by institutions organized or existing under the laws of a foreign country, or securities