

31A-23a-201 Exceptions to producer licensing.

- (1) The commissioner may not require a license as an insurance producer of:
 - (a) an officer, director, or employee of an insurer or of an insurance producer if:
 - (i) the officer, director, or employee does not receive any commission on a policy written or sold to insure risks residing, located, or to be performed in this state; and
 - (ii)
 - (A) the officer's, director's, or employee's activities are:
 - (I) executive, administrative, managerial, clerical, or a combination of these activities; and
 - (II) only indirectly related to the sale, solicitation, or negotiation of insurance;
 - (B) the officer's, director's, or employee's function relates to:
 - (I) underwriting;
 - (II) loss control;
 - (III) inspection; or
 - (IV) the processing, adjusting, investigating or settling of a claim on a contract of insurance;or
 - (C)
 - (I) the officer, director, or employee is acting in the capacity of a special agent or agency supervisor assisting an insurance producer;
 - (II) the officer's, director's, or employee's activities are limited to providing technical advice and assistance to a licensed insurance producer; and
 - (III) the officer's, director's, or employee's activities do not include the sale, solicitation, or negotiation of insurance;
 - (b) a person who:
 - (i) is paid no commission for the services described in Subsection (1)(b)(ii); and
 - (ii) secures and furnishes information for the purpose of:
 - (A) group life insurance;
 - (B) group property and casualty insurance;
 - (C) group annuities;
 - (D) group or blanket accident and health insurance;
 - (E) enrolling individuals under plans;
 - (F) issuing certificates under plans; or
 - (G) otherwise assisting in administering plans;
 - (c) a person who:
 - (i) is paid no commission for the services described in Subsection (1)(c)(ii); and
 - (ii) performs administrative services related to mass marketed property and casualty insurance;
 - (d)
 - (i) any of the following if the conditions of Subsection (1)(d)(ii) are met:
 - (A) an employer or association; or
 - (B) an officer, director, employee, or trustee of an employee trust plan;
 - (ii) a person listed in Subsection (1)(d)(i):
 - (A) to the extent that the employer, officer, employee, director, or trustee is engaged in the administration or operation of a program of employee benefits for:
 - (I) the employer's or association's own employees; or
 - (II) the employees of a subsidiary or affiliate of an employer or association;
 - (B) the program involves the use of insurance issued by an insurer; and
 - (C) the employer, association, officer, director, employee, or trustee is not in any manner compensated, directly or indirectly, by the company issuing the contract;
 - (e) an employee of an insurer or organization employed by an insurer who:

- (i) is engaging in:
 - (A) the inspection, rating, or classification of risks; or
 - (B) the supervision of the training of insurance producers; and
- (ii) is not individually engaged in the sale, solicitation, or negotiation of insurance;
- (f) a person whose activities in this state are limited to advertising:
 - (i) without the intent to solicit insurance in this state;
 - (ii) through communications in mass media including:
 - (A) a printed publication; or
 - (B) a form of electronic mass media;
 - (iii) that is distributed to residents outside of the state; and
 - (iv) if the person does not sell, solicit, or negotiate insurance that would insure risks residing, located, or to be performed in this state;
- (g) a person who:
 - (i) is not a resident of this state;
 - (ii) sells, solicits, or negotiates a contract of insurance:
 - (A) for commercial property and casualty risks to an insured with risks located in more than one state insured under that contract; and
 - (B) insures risks located in a state in which the person is licensed as provided in Subsection (1)(g)(iii); and
 - (iii) is licensed as an insurance producer to sell, solicit, or negotiate that insurance in the state where the insured maintains its principal place of business; or
- (h) if the employee does not sell, solicit, or receive a commission for a contract of insurance, a salaried full-time employee who counsels or advises the employee's employer relating to the insurance interests of:
 - (i) the employer; or
 - (ii) a subsidiary or business affiliate of the employer.
- (2) The commissioner may by rule exempt a class of persons from the license requirement of Subsection 31A-23a-103(1) if:
 - (a) the functions performed by the class of persons does not require:
 - (i) special competence;
 - (ii) special trustworthiness; or
 - (iii) regulatory surveillance made possible by licensing; or
 - (b) other existing safeguards make regulation unnecessary.

Renumbered and Amended by Chapter 298, 2003 General Session