



## State of Utah

GARY R. HERBERT  
Governor

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Lieutenant Governor

NEAL T. GOOCH  
Insurance Commissioner

# Insurance Department

## Bulletin 2012-3

**To:** All Agencies and Producers  
**From:** Neal T. Gooch, Utah Insurance Commissioner  
**Date:** June 20, 2012  
**Subject:** **Requirements for Agency and Consultant Licenses**

It has come to the attention of the Utah Insurance Department (Department) that clarification is needed as to the circumstances under which an agency license is required. This bulletin is written to address the issue of: 1) when an agency license is required to engage in the business of insurance; and 2) who should hold a consultant license.

### Agency License Requirements

An agency is defined as a person, other than an individual, including a sole proprietorship, doing business under an assumed name that is required to have a license because it is acting as a producer, limited line producer, consultant, managing general agent, or a reinsurance intermediary. *See* Utah Code Annotated (UCA) §§ 31A-1-301(6), 31A-23a-301 and Utah Administrative Code (UAC) Rule R590-154-3.

An individual producer, limited line producer, or consultant may only act under an agency's name if the individual is designated/associated with that agency. An individual producer or limited line producer may only sell, solicit, or negotiate insurance products on behalf of an insurer if the individual is appointed/affiliated directly to the insurer or designated/associated to an agency that is directly appointed/affiliated to the insurer. *See* UCA §§ 31A-23a-115, 31A-23a-302 and UAC R590-244-5.

An individual doing business as a limited liability corporation (L.L.C.) which uses the L.L.C. as the mechanism to receive and distribute commissions from the insurance company to the individual engaged in the business of insurance must have an agency license. Similarly, an individual engaged in the business of insurance which advertises as an insurance entity, like an L.L.C. or insurance agency, must also have an agency license. *See* UAC R590-154-7 (D).

An individual acting as an agent or producer for the insurer must be appointed/affiliated with an insurance company or designated by a licensed insurance agency to lawfully sell insurance in Utah. An individual that does not advertise or use business cards stating or implying he or she is an agency or insurance entity is not required to be licensed as an agency.

*Please note: Agency hours are 8am-5pm, Monday-Friday.*

## Consultant License Requirements

An insurance consultant is defined as a person who advises another person about insurance needs and coverage and is compensated through a fee and not a commission paid by an insurer. *See* UCA § 31A-1-301(89). To act as a consultant on behalf of an agency, both the individual producer and agency are required to hold a consultant license. *See* UCA §§ 31A-23a-103(1)(a), 31A-23a-302(1), UAC R590-244-10 and R590-154-7(C) & (D).

The Insurance Code states that a person, which includes both individual and agency by definition, may not perform, offer to perform or advertise any service as a consultant in Utah without a valid individual or agency consultant license. The Insurance Code also states that a person may not utilize the services of another as a consultant if the first person knows or should know that the other does not have the proper license. *See* UCA §§ 31A-1-301(125), 31A-23a-103(1)(a) and 31A-23a-103(1)(c).

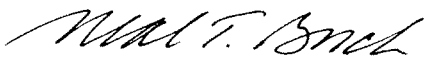
An agency licensed under the Utah Insurance Code may only sell insurance through licensed individuals who are licensed to sell the same lines of insurance as the agency. Therefore, the Department expects that if the business of consulting is being performed, that both the agency and one or more individuals within the agency have a consultant license. *See* UCA § 31A-23a-302(4).

## Renewal License Reminders

Licenses are reminded that if a license lapses, even for a day, all appointments/affiliations and designations/associations are terminated by the licensing system. As a courtesy, the Department sends renewal notices out by email approximately seventy-five (75) days prior to renewal. Consequently, it is critical that email addresses are kept current and spam filters accept Department email to ensure receipt of renewal notices. If a license lapses, upon reinstating the license and before doing business, producers and agencies will need to be re-appointed to the insurers and re-designated to the agencies. *See* UAC R590-244-7(6), R590-244-8(8) and R590-258-3.

If you have any questions regarding this bulletin, please contact either Randy Overstreet, Producer Licensing Director by phone at 801-538-3645 or by email at [roverstreet@utah.gov](mailto:roverstreet@utah.gov) or Suzette Green-Wright, Market Conduct Director, by phone at 801-538-9674 or by email at [sgreenwright@utah.gov](mailto:sgreenwright@utah.gov).

Dated this 20th day of June 2012.



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Neal T. Gooch  
Insurance Commissioner