

Title 23. Public Utilities and Regulated Industries
Chapter I. State Insurance Department, Department of Commerce
Subchapter A. Generally
Part 17. Agent Licensing for Automobile Clubs or Associations

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"SECTION 2. AUTHORITY

This Rule is issued pursuant to the authority vested in the Insurance Commissioner for the State of Arkansas under Ark. Code Ann. §§ 23-77-103(a), 23-77-105(a)(1), and 25-15-201, et seq.

SECTION 3. EFFECTIVE DATE

The provisions of this Rule shall become effective May 1, 1990."

Subpart 1. Generally

23 CAR § 17-101. Purpose.

The purpose of this part is to set the standards and guidelines under which agents and representatives for automobile clubs or associations can obtain and maintain licenses issued by the State of Arkansas.

Authority. Arkansas Code § 23-77-105.

23 CAR § 17-102. Applicability and scope.

This part shall apply to all agents and representatives engaged in the solicitation and sale of Arkansas membership for automobile clubs and associations.

Authority. Arkansas Code § 23-77-105.

23 CAR § 17-103. Definitions.

As used in this part:

(1) "Agent" or "representative" means any person who engages in solicitation and enrollment of Arkansas members for any authorized automobile club or association, but shall exclude any salaried officer or employee who:

(A) Has duties that are primarily administrative or clerical; and

(B) Receives no commission or fee for:

(i) Applications taken;

(ii) Membership enrollments made; or

(iii) Insurance policies sold to members; and

(2) "Automobile club" or "automobile association" shall be defined pursuant to Arkansas Code § 23-77-101(1).

Authority. Arkansas Code § 23-77-105.

23 CAR § 17-104. License required.

Pursuant to Arkansas Code § 23-77-103(a) and § 23-77-108(a), before any agent or representative shall solicit or sell memberships in an automobile club or association transacting business in this state, he or she shall obtain a license from the Insurance Commissioner of this state.

Authority. Arkansas Code § 23-77-105.

23 CAR § 17-105. License qualifications.

Every person applying for an initial agent license or renewal license shall be qualified as follows:

(1) Must be of legal age or must have had disabilities of minority removed for all general purposes;

(2) Must be a resident of this state or a licensed resident automobile club or association agent of another state which will permit residents of Arkansas to act as an automobile club or association agent in the other state;

(3) Must be recommended and appointed by an authorized automobile club or association;

(4) Must be deemed by the Insurance Commissioner to be:

(A) Competent;

(B) Trustworthy;

(C) Financially responsible;

(D) Of good personal and business reputation; and

(E) Of good moral character, ability, and integrity; and

(5) Must have had sufficient experience, education, or training as to the kinds of insurance and other motor club services defined in Arkansas Code § 23-77-101(2) which he or she will be selling or offering for sale to prospective Arkansas members of automobile clubs or associations.

Authority. Arkansas Code § 23-77-105.

23 CAR § 17-106. License issuance.

After receipt and review of completed applications, payment of license and renewal license fees, and receipt of initial and renewal appointments from authorized automobile clubs or associations, the Insurance Commissioner shall issue such licenses or renewal licenses to resident and nonresident individuals who are eligible pursuant to the provisions of Arkansas Code § 23-77-101 et seq., and of this part.

Authority. Arkansas Code § 23-77-105.

23 CAR § 17-107. Term of license.

(a) Every license issued under this part shall be valid for the calendar year when issued, and automobile club or association appointments may be renewed biennially in odd-numbered years, contingent upon payment of the appropriate fees.

(b) Licensees shall send prompt written notice to the Insurance Commissioner upon any change of business or resident address.

Authority. Arkansas Code § 23-77-105.

23 CAR § 17-108. License sanctions.

(a) The Insurance Commissioner may suspend for not more than twelve (12) months or may revoke or refuse to continue any license issued under this part and Arkansas laws after:

(1) Notice to the licensee and a hearing is held under the provisions of Arkansas Code § 23-61-303 et seq., as provided under Arkansas Code § 23-77-102; and

(2) The commissioner determines that any one (1) or more of the following causes exists:

(A) Any cause for which issuance of the license could have been refused had it then existed and been known to the commissioner;

(B) Violation of or noncompliance with any provision of Arkansas Code § 23-77-101 et seq., or other applicable laws of this state, or for willful violation of any rule or order of the commissioner;

(C) Obtaining or attempting to obtain any such license through fraud or misrepresentation;

(D) Misappropriation or conversion to his or her own use of any moneys received in transacting business under the license that do not belong to him or her;

(E) Conviction of a felony;

(F) If in the conduct of his or her affairs, the licensee has used:

(i) Fraudulent or dishonest practices; or

(ii) Trade practices which are injurious or hazardous to the public;

(G) Solicitation or sale of automobile club or association memberships or insurance policies thereunder before initial or renewal licensing;

(H) Making false or misleading statements as to or misrepresenting membership benefits or insurance policies thereunder;

(I) Making or offering to make to members or prospective members any unauthorized rebates, discounts, or credits of membership dues, premiums, or other benefits of insurance policies provided as a motor club service to members;

(J) Participating in a submission of false or fraudulent claims as to members' insurance policies or other membership benefits;

(K) Willfully collecting and/or retaining:

(i) Any sums as membership dues if the membership is not then provided or is not in due course to be provided; or

(ii) A member's premiums or charges for insurance which is not then provided or is not in due course to be provided;

(L) Willfully collecting as members' premiums or charges for insurance sums in excess of those specified in the policies and as fixed by the automobile club or association;

(M) Directly or indirectly sharing commissions or fees from membership dues or policy sales with persons not also licensed as agents for the automobile club or association involved, excluding payment of regular salaries due employees of the licensee; or

(N) Soliciting or selling a "twenty-four-hour" or "all risk" accidental death and dismemberment policy:

(i) Which is not one hundred percent (100%) underwritten by a licensed disability agent;

(ii) Which is marketed separately from other benefits included in the membership package; or

(iii) For which an identifiable premium is collected from members.

(b) If the commissioner finds that any one (1) or more grounds exist for the nonrenewal, suspension, or revocation of any license, the commissioner may in his or

her discretion, in lieu of such nonrenewal, suspension, or revocation, impose an administrative penalty in the amount of three hundred dollars (\$300), or if the commissioner has found willful misconduct or willful violation by the licensee, one thousand dollars (\$1,000).

Authority. Arkansas Code § 23-77-105.

23 CAR § 17-109. Severability.

Any section or provision of this part held by a court to be invalid or unconstitutional will not affect the validity of any other section or provision of this part.

Authority. Arkansas Code § 23-77-105.