

STATE OF ARIZONA
OFFICE OF THE ATTORNEY GENERAL

ATTORNEY GENERAL OPINION by TERRY GODDARD ATTORNEY GENERAL March 19, 2007	No. I07-004 (R06-029) Re: Insurance Producer License Applicants and 2005 Amendments to A.R.S. § 20-284(A)
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To: The Honorable Robert L. Burns
Arizona State Senate

Question Presented

As amended by 2005 Ariz.Sess.Laws, Ch. 126, Arizona Revised Statute (“A.R.S.”) § 20-284(A) requires insurance producer license applicants to take their license examinations within the 120-day period before filing their applications. You have asked whether this new requirement applies to applicants who took their examinations before the amendment’s effective date but filed their applications after the law became effective.

Summary Answer

Section 20-284, A.R.S., as amended by 2005 Ariz.Sess.Laws, Ch. 126, applies only to examinations administered after the effective date of the Act. Therefore, an applicant who took the examination before the effective date of the Act, August 12, 2005, but filed the application after that date, is not subject to the 120-day requirement of A.R.S. § 20-284(A).

Background

A resident applying for an insurance producer license must pass an examination that tests his or her knowledge of the duties and responsibilities of an insurance producer, the insurance laws of this state, and the lines of authority for which the application is made. *See* A.R.S. § 20-284(A). Before 2005, the law did not require the applicant to take the insurance producer license examination within any specified time period before filing the application. In 2005, however, the Legislature amended A.R.S. § 20-284(A) to require that applicants pass the examination within 120 days before filing the application. *See* 2005 Ariz.Sess.Laws, Ch. 126, § 1. The amendment also provides an extension of the 120-day period for an individual called into active military service and limits the number of times an individual can take the license examination within a twelve-month period. *See* 2005 Ariz.Sess.Laws, Ch. 126, § 1. Finally, 2005 Ariz.Sess.Laws, Ch. 126, § 3 provides: “Section 20-284, Arizona Revised Statutes, as amended by this act, *applies only for examinations that are administered from and after the effective date of this act.*” (Emphasis added.) The amended law became effective on August 12, 2005.

Analysis

The cardinal rule of statutory construction is to ascertain and give effect to the intent of the Legislature. *See Mail Boxes, etc., U.S.A. v. Indus. Comm’n of Ariz.*, 181 Ariz. 119, 121, 888 P.2d 777, 779 (1995). If the statutory language is clear and unambiguous, it is conclusive unless the Legislature clearly expresses an intent to the contrary or absurd consequences would result. *See Bustos v. W.M. Grace Dev.*, 192 Ariz. 396, 398, 966 P.2d 1000, 1002 (App. 1997).

The language of Section 3 of 2005 Ariz.Sess.Laws, Ch. 126, is unambiguous. It clearly states that the amendments to A.R.S. § 20-284 in that Act apply only to examinations administered from and after the effective date of the Act. This language plainly exempts all

examinations taken prior to the effective date from the new regulatory requirements. Thus, the law leaves applicants who passed their examinations before August 12, 2005, in the same position they would have been had the statute never been amended.

The language of Section 3 expressly applies to all amendments to A.R.S. §20-284, including the amendments to subsection A. Section 3 and other portions of Chapter 126 include no language that supports applying the 120-day requirement to examinations administered before the effective date of the legislation. Furthermore, if the Legislature had intended the 120-day period in subsection A to apply to examinations taken before August 12, 2005, Section 3 could have stated that A.R.S. § 20-284 applies to *applications* filed after the Act's effective date. As it is, 2005 Ariz.Sess.Laws, Ch. 126, does not evidence an intent to exclude any part of A.R.S. § 20-284 from the provisions of the grandfather clause in Section 3. To the contrary, the Legislature's use of a separate section to limit the amendment's scope underscores its intent to apply the language in Section 3 to all provisions of the Act. The Legislation imposes the new regulatory requirements on *examinations* administered after the effective date of the amended Act.

This analysis is consistent with the statute's legislative history. The fact sheet on the bill prepared by Senate staff for the Senate Finance Committee states that the bill "[a]pplies the provisions of the bill only to those examinations administered after the general effective date." Senate Research Staff, Fact Sheet on H.B. 2189, 47th Leg., 1st Reg. Sess., at 2 (March 8, 2005). The wording of this fact sheet, which does not reference any exceptions to the grandfather clause, confirms that Section 3 governs all sections of the amended statute.

According to testimony concerning the Legislation, the 120-day period is intended to ensure that people who obtain licenses have current knowledge of the relevant issues. *Hearing on H.B. 2189 Before the H. Comm. on Financial Institutions and Insurance*, 47th Leg., 1st Reg.

Sess. (January 24, 2005). Arguably, exempting those who took the test before the Act's effective date from the 120-day requirement does not further that purpose. But that policy argument cannot override the clear language of Section 3. Applying the plain language of the statute does not lead to an absurd result, but simply leaves applicants who took the examination before the effective date of the Act in the same position they would have been had the law not been passed.

Conclusion

The language of 2005 Ariz.Sess.Laws, Ch. 126, is clear and unambiguous. The provisions of A.R.S § 20-284, as amended, apply only to examinations administered after the effective date of the Act. Examinations taken before that date are exempt from the new regulatory requirements imposed by 2005 Ariz.Sess.Laws, Ch. 126, even if the application is filed after August 12, 2005.

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