Citizenship and licensure requirements

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Subject:
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REGULATION OF OCCUPATIONS--CITIZENSHIP REQUIREMENTS

To: Thomas D. O'Malley, Insurance Commissioner, Tallahassee

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QUESTION:

May the Department of Insurance, in view of the enactment of Ch. 74-37, Laws of Florida, give examinations and issue licenses to noncitizens who are otherwise qualified to take such examinations and hold such licenses to practice those occupations or professions regulated by the Department of Insurance, notwithstanding provisions of the Insurance Code that require one to be a citizen as a prerequisite to licensure?

SUMMARY:

Under s. 455.012, F. S., as amended by Ch. 74-37, Laws of Florida, the Department of Insurance may not refuse to give an examination or issue a license to practice any occupation or profession solely on the ground that the applicant is not a United States citizen, notwithstanding any contrary statutory provisions.

In Ch. 74-37, Laws of Florida, the legislature reworded s. 455.012, F. S., to now provide:

"(1) *No person shall be disqualified from practicing an occupation or profession regulated by the state solely because he is not a United States citizen*. However, any regulatory agency may require that an applicant submit proof of his intention to become a citizen as a condition of eligibility to sit for any board examination.

(2) When declaration of intention to become a citizen is required as a prerequisite for occupational or professional practice, failure to become a citizen within 5 years after the license is granted shall be a ground for revocation of the license." (Emphasis supplied.)

The first sentence of s. 455.012(1), F. S., directly and irreconcilably conflicts with all statutes requiring citizenship as a qualification for practicing any occupation or profession regulated by the state. In situations such as this, the later enactment of the legislature prevails and effects an implied repeal of earlier, inconsistent statutes. *See, generally*, 30 Fla. Jur. *Statutes* ss. 158-9.

In accordance with s. 455.012, F. S., the Department of Insurance may require proof of an intent

to become a citizen, but it may not refuse to give an examination or issue a license to an applicant solely on the ground that the applicant is not a citizen.