

## Assembly Bill No. 544

### CHAPTER 84

An act to amend Section 1704 of the Insurance Code, relating to insurance solicitors.

[Approved by Governor July 19, 2005. Filed with  
Secretary of State July 19, 2005.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 544, Vargas. Insurance solicitors: appointment.

Under existing law, an insurance solicitor may be appointed by an insurance agent or broker to aid in transacting insurance other than life insurance. Existing law prohibits a notice of appointment of a solicitor from being filed with the Insurance Commissioner unless a notice of termination of appointment has been filed with the commissioner for any previously filed notice of appointment of the solicitor.

This bill would set forth specified circumstances in which a notice of appointment appointing a solicitor may be filed by a 2nd or subsequent fire and casualty broker-agent.

*The people of the State of California do enact as follows:*

SECTION 1. Section 1704 of the Insurance Code is amended to read:

1704. (a) Life agents, travel agents, and fire and casualty insurance agents shall not act as an agent of an insurer unless the insurer has filed with the commissioner a notice of appointment, executed by the insurer, appointing the licensee as the insurer's agent. Every fire and casualty broker-agent acting in the capacity of an insurance solicitor shall have filed on his or her behalf with the commissioner a notice executed by an insurance agent or insurance broker appointing and agreeing to employ the solicitor as an employee within this state. Additional notices of appointment may be filed by other insurers before the license is issued and thereafter as long as the license remains in force. The authority to transact insurance given to a licensee by an insurer or fire and casualty broker-agent, as the case may be, by appointment shall be effective as of the date the notice of appointment is signed. That authority to transact shall apply to transactions occurring after that date and for the purpose of determining the insurer's or fire and casualty broker-agent's liability for acts of the appointed licensee. No notice of appointment of a life agent, fire and casualty broker-agent, or travel insurance agent shall be filed under this subdivision unless the licensee being appointed has consented to that filing. Each appointment made under this subdivision shall by its terms continue in force until:

(1) The cancellation or expiration of the license applied for or held at the time the appointment was filed.

(2) The filing of a notice of termination by the insurer or employing fire and casualty broker-agent, or by the appointed life agent, fire and casualty broker-agent, travel insurance agent, or insurance solicitor.

(b) Upon the termination of all appointments, or all endorsements naming the licensee on the license of an organization licensee, and the cancellation of the bond required pursuant to Section 1662 if acting as a broker, the permanent license shall not be canceled, but shall become inactive. It may be renewed pursuant to Section 1718. It may be reactivated at any time prior to its expiration by the filing of a new appointment pursuant to this section, Section 1707, and Section 1751.3, or the filing of a new bond pursuant to Section 1662. An inactive license shall not permit its holder to transact any insurance for which a valid, active license is required.

(c) Upon the termination of all appointments of a person licensed under a certificate of convenience, such certificate shall be canceled and shall be returned by its lawful custodian to the commissioner.

(d) A fire and casualty broker-agent appointing an insurance solicitor pursuant to this section, if a natural person, must be the holder of a permanent license to act as a fire and casualty broker-agent or the holder of a certificate of convenience so to act issued pursuant to either subdivision (a) or (b) of Section 1685. If the fire and casualty broker-agent is an organization, it must be the holder of a permanent license.

(e) The filing of an incomplete or deficient action notice with the department shall require the filing of an amended, complete action notice, together with the payment of the fee therefor specified in subdivision (n) of Section 1751.

(f) A notice of appointment appointing a solicitor may be filed by a second or subsequent fire and casualty broker-agent. The broker-agent seeking to appoint the solicitor shall enter into an agreement with all other fire and casualty broker-agents with whom the insurance solicitor has an existing appointment. The agreement shall govern how the broker-agents will determine on which fire and casualty broker-agent's behalf the solicitor is working when dealing with individuals who are customers of none of the fire and casualty broker-agents with whom the solicitor has an appointment. If the agreement does not identify which broker-agent or broker-agents are liable for the act of the solicitor, all fire and casualty broker-agents with whom the solicitor is appointed at the time of the act shall be jointly and severally liable for that act.