

Assembly Bill No. 720

CHAPTER 270

An act to amend Sections 32, 1622, 1626, 1637, 1639, 1673, 1675, 1676, 1688, 1749, 1749.3, 1749.31, 1749.8, and 10234.93 of, and to add Sections 1707.7 and 1749.33 to, the Insurance Code, relating to insurance licensees.

[Approved by Governor October 5, 2007. Filed with
Secretary of State October 5, 2007.]

LEGISLATIVE COUNSEL'S DIGEST

AB 720, De Leon. Insurance: licenses.

Existing law authorizes a life agent, by or on behalf of a life, disability, or life and disability insurer, to transact life, disability, or life and disability insurance.

This bill would instead authorize a life licensee to act as a life agent on behalf of a life insurer or a disability insurer to transact life insurance, accident and health insurance, or life and accident and health insurance.

Under existing law, a life licensee is a person authorized by and on behalf of a life, disability, or life and disability insurer to transact life, disability, or life and disability insurance, and a life agent license authorizes a licensee to act in that capacity.

This bill would recast and reorganize those provisions based on types of licenses to act as a life agent. The first type of licensee would be authorized to act as a life-only agent, to transact insurance coverage on human lives including benefits of endowment and annuities. The 2nd type of licensee would be authorized to transact accident and health coverage, as specified.

Existing law provides that an organization may hold any license or licenses necessary to act in specified capacities, including as a life agent.

This bill would change the above reference from "life agent" to "life-only agent." The bill would also add a license to act as an accident and health agent to the types of licenses that an organization may hold.

Existing law exempts certain applicants, who have been licensed to act as agents, from requirements related to license examinations. This includes an exemption for an applicant for a license to act as a life agent who has been licensed as such during any part of the license year in which the application is filed or the immediately preceding year.

This bill would change the above reference from "life agent" to "life-only agent" and would also exempt an applicant for a license to act as an accident and health agent who has been licensed as such during any part of the license year in which the application is filed or the immediately preceding year.

Existing law, at the discretion of the commissioner, exempts an applicant for a personal lines license who has been continually employed by an admitted insurer or licensed fire and casualty broker in a full-time position

for at least 3 years prior to January 1, 2001, from having to pass an examination to obtain a personal lines license.

This bill would delete those provisions. The bill would additionally require an applicant for both a life-only and accident and health license types to meet the requirement for a permanent license by passing one examination covering subjects pertaining to both license types and paying a specified fee.

Existing law requires the commissioner, on or before the first day of August to make a report to the Governor, the Legislature, and the committees of the Senate and Assembly having jurisdiction over insurance containing a tabular statement and synopsis showing the general condition of insurance, and related matters, in this state.

This bill would require the commissioner to include in this report information, as specified, relating to the various types of agent licenses. At the end of 5 years, the commissioner would be required to issue a cumulative summary of the agent data required to be included in the yearly reports.

Existing law requires that all new applicants for various agent licenses meet prelicensing education standards, including, for a life agent license, a minimum of 40 hours, including instruction in workers' compensation and employers' liability.

This bill would reduce the above number of minimum hours from 40 to 20 and would delete the requirement that the above curriculum include instruction in workers' compensation and employers' liability. The bill would also require a minimum of 20 hours of prelicensing study as a prerequisite for qualification for an accident and health agent license. The curriculum for satisfying this requirement would be approved by the curriculum board and submitted to the commissioner for final approval. The bill would also permit an applicant for a fire and casualty broker-agent license, who is currently licensed as such in another state and who has completed 40 hours of prelicensing education for licensing in that state, to complete only an ethics course, as specified.

Existing law requires a life agent who wishes to sell 24-hour care coverage to complete specified educational requirements on workers' compensation and employer liability.

This bill would recast the above provisions to apply only to accident and health agent licensees.

Existing law requires licensed personal lines broker-agents to complete 10 hours of continuing education courses, programs of instruction, or seminars prior to the renewal of their licenses.

The bill would also require personal lines broker-agents, life-only agents, accident and health agents, and agents licensed as both life-only and accident and health agents, to complete 24 hours of continuing education prior to renewal of their licenses. The bill would make other conforming changes.

This bill would incorporate additional changes to Sections 1637 and 1749 of the Insurance Code proposed by AB 797 contingent on the prior enactment of that bill.

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

SECTION 1. Section 32 of the Insurance Code is amended to read:

32. (a) A life licensee is a person authorized to act as a life agent on behalf of a life insurer or a disability insurer to transact any of the following:

- (1) Life insurance.
- (2) Accident and health insurance.
- (3) Life and accident and health insurance.

(b) Licenses to act as a life agent under this chapter shall be of the types as set forth in Section 1626.

(c) A life agent may be authorized to transact 24-hour care coverage, as defined in Section 1749.02, pursuant to the requirements of subdivision (d) of Section 1749 or subdivision (b) of Section 1749.33.

SEC. 2. Section 1622 of the Insurance Code is amended to read:

1622. (a) A life licensee is a person authorized to act on behalf of a life insurer or a disability insurer to transact any of the following:

- (1) Life insurance.
- (2) Accident and health insurance.
- (3) Life and accident and health insurance.

(b) Licenses to act as a life agent under this chapter shall be of the types set forth in Section 1626.

SEC. 3. Section 1626 of the Insurance Code is amended to read:

1626. (a) A life licensee is a person authorized to act as a life agent. Licenses to act as a life agent under this chapter shall be of the following types:

(1) Life-only, which license shall entitle the licensee to transact insurance coverage on human lives, including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income.

(2) Accident and health, which license shall entitle the licensee to transact insurance coverage for sickness, bodily injury, or accidental death and may include benefits for disability income.

(b) A accident and health agent licensee is also authorized to transact 24-hour care coverage, as defined in Section 1749.02, pursuant to the requirements of subdivision (d) of Section 1749 or subdivision (d) of Section 1749.33.

SEC. 4. Section 1637 of the Insurance Code is amended to read:

1637. An organization may hold any license or licenses necessary to act in the following capacities under this chapter and no others:

- (a) A license to act as a life-only agent.
- (b) A license to act as an accident and health agent.
- (c) A license to act as a fire and casualty broker-agent.
- (d) A license to act as a cargo shipper's agent.
- (e) A license to act as a personal lines licensee.
- (f) A license to act as a credit insurance agent.
- (g) A license to act as a rental car agent.

(h) A nonresident license to act as a limited lines licensee pursuant to subdivision (i) of Section 1639.

(i) A license to act as a self-service storage agent.

SEC. 4.5. Section 1637 of the Insurance Code is amended to read:

1637. An organization may hold any license or licenses necessary to act in the following capacities under this chapter and no others:

(a) A license to act as a life-only agent.

(b) A license to act as an accident and health agent.

(c) A license to act as a fire and casualty broker-agent.

(d) A license to act as a cargo shipper's agent.

(e) A license to act as a personal lines licensee.

(f) A license to act as a credit insurance agent.

(g) A license to act as a rental car agent.

(h) A nonresident license to act as a limited lines licensee pursuant to subdivision (i) of Section 1639.

(i) A license to act as a self-service storage agent.

(j) A license to act as a limited lines automobile insurance agent.

SEC. 5. Section 1639 of the Insurance Code is amended to read:

1639. The following types of licenses under this chapter may be issued to nonresidents:

(a) A fire and casualty broker-agent if the nonresident is duly licensed to transact more than one class of insurance, other than life insurance, disability insurance, title insurance, or life and disability insurance, under the laws of the state, territory of the United States, or province of Canada where he or she maintains a resident license to transact insurance.

(b) A personal lines broker-agent if the nonresident is duly licensed to transact those lines of insurance described in Section 1625.5, under the laws of the state, territory of the United States, or province of Canada where the resident license is maintained.

(c) A life-only agent or an accident and health agent if the nonresident possesses a resident license in another state, territory of the United States, or province of Canada to transact life insurance or disability insurance.

(d) A nonresident life-only agent may be granted authority to transact variable contracts if he or she has been granted that authority by the state where the resident license is maintained.

(e) A surplus line broker and a special lines surplus broker if the nonresident holds that type of license in the state or territory of the United States where the resident license is maintained.

(f) A credit insurance agent if the nonresident holds that type of license in the state, territory of the United States, or province of Canada where the resident license is maintained.

(g) A rental car agent if the nonresident holds that type of license in the state, territory of the United States, or province of Canada where the resident license is maintained.

(h) A cargo shipper's agent if the nonresident holds that type of license in the state, territory of the United States, or province of Canada where the resident license is maintained.

(i) A limited lines license if the nonresident holds that type of license in the state, territory of the United States, or province of Canada where the resident license is maintained. As used in this section, “limited lines license” means any authority granted by the resident state that restricts the authority of the license to less than the total authority granted by any of the types of licenses identified in this section.

(j) A self-service storage agent if the nonresident holds that type of license in the state, territory of the United States, or Province of Canada where the resident license is maintained.

SEC. 6. Section 1673 of the Insurance Code is amended to read:

1673. A person licensed as a fire and casualty broker-agent or a life licensee may be authorized to transact disability insurance on behalf of any insurer which is authorized to transact disability insurance by the filing of a notice of appointment for that purpose. The authority to transact disability insurance given by an insurer to a person acting as an agent by appointment shall be effective as of the date the notice of appointment is signed by the insurer. That authority to transact shall apply to transactions occurring after that date and for the purpose of determining the insurer’s liability for acts of appointed agents. The commissioner shall prescribe the forms of the notice of appointment.

SEC. 7. Section 1675 of the Insurance Code is amended to read:

1675. Except as provided in Section 1680, the following applicants who have theretofore been licensed under this code are exempt from the requirements of this article:

(a) An applicant for a license to act as a fire and casualty broker-agent who has been licensed as a fire and casualty broker-agent or surplus line broker during any part of the license year in which the application is filed or the immediately preceding license year.

(b) An applicant for a license to act as a life-only agent who has been licensed as a life-only agent during any part of the license year in which the application is filed or the immediately preceding license year.

(c) An applicant for a license to act as an accident and health agent who has been licensed as an accident and health agent during any part of the license year in which the application is filed or the immediately preceding license year.

(d) An applicant for a license to act as travel insurance agent.

(e) An applicant specifically exempted from the particular qualifying examination requirement by other provisions of this code.

SEC. 8. Section 1676 of the Insurance Code is amended to read:

1676. (a) Except as set forth in Sections 1675 and 1679, the commissioner shall not issue a permanent license pursuant to this chapter to an applicant therefor unless the applicant has within the 12-month period next preceding the date of issue of the license taken and passed the qualifying examination for that license. This section shall not apply to a person licensed as a fire and casualty broker-agent who applies for a license as a personal lines broker-agent.

(b) An application for both the life-only and accident and health license types shall meet the requirement in subdivision (a) by passing one examination covering subjects pertaining to both license types. These applicants shall pay the fee for a life agent, as specified in subparagraph (2) of subdivision (a) of Section 1751.

(c) An applicant for a life-only license pursuant to Section 1626 or a life-only license limited to the payment of funeral and burial expenses who is limited by the terms of a written agreement with an insurer which has filed on that life-only agent's behalf a notice of appointment with the commissioner to transact only specific life insurance policies or annuities having an initial face amount of fifteen thousand dollars (\$15,000) or less that are designated by the purchaser for the payment of funeral and burial expenses, shall not be required to take the full life agent examination to obtain a license. The applicant shall be required to take an examination developed to test their knowledge of topics relevant to the type of policies that they are restricted to sell.

SEC. 9. Section 1688 of the Insurance Code is amended to read:

1688. To be eligible for a certificate of convenience to act as an industrial debit collection certificate holder, a person must be an applicant for a permanent license to act as a life-only agent or an accident and health agent. An industrial debit collection certificate shall be issued only to act in the capacity for which the license is sought.

SEC. 9.5. Section 1707.7 is added to the Insurance Code, to read:

1707.7. As part of the report required under Section 12922, the commissioner shall provide the following information for the previous calendar year ending December 31 for five years after the operative date of this section:

(a) The total number of applications filed for a fire and casualty broker-agent license, a personal lines broker-agent license, a limited lines auto-only agent license, a life-only agent license, and an accident and health agent license.

(b) The total number of licensees issued a fire and casualty license, a personal lines license, a limited lines automobile license, a life-only license, and an accident and health license.

(c) The total number of licensees with both a life-only agent license and an accident and health agent license.

(d) The total justified complaints against the licensees enumerated in subdivision (b) annually for five years.

(e) At the end of five years following the issuance of auto-only agent, life-only agent and accident and health agent licenses, a cumulative summary of the data required by this section compared to the licenses issued for fire and casualty broker-agent, personal lines broker-agent, and life agent for the year immediately preceding the creation of this section.

SEC. 10. Section 1749 of the Insurance Code is amended to read:

1749. The department shall require all new applicants for license as a fire and casualty broker-agent, personal lines broker-agent, life-only agent,

or accident and health agent to meet prelicensing education standards as follows:

(a) Require a minimum of 40 hours of prelicensing study as a prerequisite to qualification for a fire and casualty broker-agent license. The curriculum for satisfying this requirement shall be approved by the curriculum board and submitted to the commissioner for final approval. Any additions to the minimum requirements provided by this section shall be approved by the curriculum board pursuant to Section 1749.1 and certified by the department.

(b) Require a minimum of 20 hours of prelicensing study as a prerequisite for qualification for a personal lines broker-agent license. The curriculum for satisfying this requirement shall be approved by the curriculum board and submitted to the commissioner for final approval. Any additions to the minimum requirements provided by this section shall be approved by the curriculum board pursuant to Section 1749.1 and certified by the department.

(c) Require a minimum of 20 hours of prelicensing study as a prerequisite for qualification for a life-only agent license. The curriculum for satisfying this requirement shall be approved by the curriculum board and submitted to the commissioner for final approval. Any additions to the minimum requirements provided by this section shall be approved by the curriculum board pursuant to Section 1749.1 and certified by the department.

(d) Require a minimum of 20 hours of prelicensing study as a prerequisite for qualification for an accident and health agent license. The curriculum for satisfying this requirement shall be approved by the curriculum board and submitted to the commissioner for final approval. Any additions to the minimum requirements provided by this section shall be approved by the curriculum board pursuant to Section 1749.1 and certified by the department. This curriculum shall also include instruction in workers' compensation and general principles of employers' liability.

(e) In addition to the 40 hours prelicensing education required to qualify for a license as a fire and casualty broker-agent, or the 20 hours prelicensing education required to qualify for a license as a personal lines broker-agent, a life-only agent, or an accident and health agent, the department shall require 12 hours of study on ethics and this code. Where an applicant seeks a license for more than one of the following license types: a fire and casualty broker-agent license, a personal lines broker-agent license, a life-only license, or an accident and health license, the applicant shall only be required to complete one 12-hour course on ethics and this code. The curriculum for satisfying this requirement shall be approved by the curriculum board and submitted to the commissioner for final approval.

(f) An applicant for a life-only license, an accident and health license, or a personal lines broker-agent license who is currently licensed as such in another state and who has completed 20 hours of prelicensing education as a requirement for licensing in that state shall be required to complete only the course of study on ethics and the Insurance Code, as required by Section 1749. Additionally, any applicant for such a license holding one or more of the designations specified in subdivisions (a) to (e), inclusive, of Section 1749.4 shall be exempted from any requirement for courses in

general insurance that would otherwise be a condition of issuance of the license.

(g) An applicant for a fire and casualty broker-agent license who is currently licensed as such in another state and who has completed 40 hours of prelicensing education as a requirement for licensing in that state shall be required to complete only the course of study on ethics and the Insurance Code, as required by subdivision (e). Additionally, any applicant for such a license holding one or more of the designations specified in subdivisions (a) to (e), inclusive, of Section 1749.4, shall be exempted from any requirement for courses in general insurance that would otherwise be a condition of issuance of the license.

(h) An applicant for a fire and casualty broker-agent license who is licensed as a personal lines agent shall complete a minimum of 20 hours prelicensing study as a prerequisite. The curriculum for satisfying this requirement shall be approved by the curriculum board and submitted to the commissioner for final approval. The applicant shall not be required to repeat any prelicensing requirements completed as a prerequisite to being licensed as a personal lines agent.

(i) Review and approval of prelicensing courses not conducted in a classroom, as referenced in subdivisions (a), (b), (c), (d), and (h) shall include an evaluation of the safeguards in place to ensure that the student completing the course is the person enrolled in the course, methods used to monitor the students' attendance are adequate, methods for the student to interact with the entity providing the training exist, and methods used to record the times spent completing the course are adequate.

(j) Prelicensing certificates of completion expire three years from completion date of the course, whether or not a license is issued.

SEC. 10.5. Section 1749 of the Insurance Code is amended to read:

1749. The department shall require all new applicants for license as a fire and casualty broker-agent, limited lines automobile insurance agent, personal lines broker-agent, life-only agent, or accident and health agent to meet prelicensing education standards as follows:

(a) Require a minimum of 40 hours of prelicensing study as a prerequisite to qualification for a fire and casualty broker-agent license. The curriculum for satisfying this requirement shall be approved by the curriculum board and submitted to the commissioner for final approval. Any additions to the minimum requirements provided by this section shall be approved by the curriculum board pursuant to Section 1749.1 and certified by the department.

(b) Require a minimum of 20 hours of prelicensing study as a prerequisite for qualification for a personal lines broker-agent license. The curriculum for satisfying this requirement shall be approved by the curriculum board and submitted to the commissioner for final approval. Any additions to the minimum requirements provided by this section shall be approved by the curriculum board pursuant to Section 1749.1 and certified by the department.

(c) Require a minimum of 20 hours of prelicensing study as a prerequisite for qualification for a life-only agent license. The curriculum for satisfying this requirement shall be approved by the curriculum board and submitted

to the commissioner for final approval. Any additions to the minimum requirements provided by this section shall be approved by the curriculum board pursuant to Section 1749.1 and certified by the department.

(d) Require a minimum of 20 hours of prelicensing study as a prerequisite for qualification for limited lines automobile insurance agent license. The curriculum for satisfying this requirement shall be approved by the curriculum board and submitted to the commissioner for final approval. Any additions to the minimum requirements under this section shall be approved by the curriculum board pursuant to Section 1749.1 and certified by the department.

(e) Require a minimum of 20 hours of prelicensing study as a prerequisite for qualification for an accident and health insurance agent license. The curriculum for satisfying this requirement shall be approved by the curriculum board and submitted to the commissioner for final approval. Any additions to the minimum requirements under this section shall be approved by the curriculum board pursuant to Section 1749.1 and certified by the department. This curriculum shall also include instruction in workers' compensation and general principles of employers' liability.

(f) In addition to the 40 hours prelicensing education required to qualify for a license as a fire and casualty broker-agent, the 20 hours prelicensing education required to qualify for a license as a personal lines broker-agent, a life-only agent, or an accident and health agent, or the 20 hours prelicensing education required to qualify for a license as a limited lines automobile insurance agent, the department shall require 12 hours of study on ethics and this code. Where an applicant seeks a license for more than one of the following license types: a fire and casualty broker-agent license, a personal lines broker-agent license, a life-only license, or an accident and health license, the applicant shall only be required to complete one 12-hour course on ethics and this code. The curriculum for satisfying this requirement shall be approved by the curriculum board and submitted to the commissioner for final approval.

(g) An applicant for a life-only agent license, an accident and health license, a personal lines broker-agent license, or a limited lines automobile insurance agent license, who is currently licensed as such in another state and who has completed 20 hours of prelicensing education as a requirement for licensing in that state shall be required to complete only the course of study on ethics and the Insurance Code, as required by Section 1749. Additionally, any applicant for such a license holding one or more of the designations specified in subdivisions (a) to (e), inclusive, of Section 1749.4 shall be exempted from any requirement for courses in general insurance that would otherwise be a condition of issuance of the license.

(h) An applicant for a fire and casualty broker-agent license who is currently licensed as such in another state and who has completed 40 hours of prelicensing education as a requirement for licensing in that state shall be required to complete only the course of study on ethics and this code, as required by subdivision (f). Additionally, any applicant for such a license holding one or more of the designations specified in subdivisions (a) to (e),

inclusive, of Section 1749.4, shall be exempted from any requirement for courses in general insurance that would otherwise be a condition of issuance of a license.

(i) An applicant for a fire and casualty broker-agent license who is licensed as a personal lines agent shall complete a minimum of 20 hours prelicensing study as a prerequisite. The curriculum for satisfying this requirement shall be approved by the curriculum board and submitted to the commissioner for final approval. The applicant shall not be required to repeat any prelicensing requirements completed as a prerequisite to being licensed as a personal lines agent.

(j) Review and approval of prelicensing courses not conducted in a classroom, as referenced in subdivisions (a), (b), (c), (d), and (i) shall include an evaluation of the safeguards in place to ensure that the student completing the course is the person enrolled in the course, methods used to monitor the students' attendance are adequate, methods for the student to interact with the entity providing the training exist, and methods used to record the times spent completing the course are adequate.

(k) Prelicensing certificates of completion expire three years from the completion date of the course, whether or not a license is issued.

SEC. 11. Section 1749.3 of the Insurance Code is amended to read:

1749.3. (a) An individual licensed as a life-only agent or an accident and health agent and also licensed as a fire and casualty broker-agent, or an individual only licensed as a fire and casualty broker-agent, shall complete those courses, programs of instruction, or seminars approved by the commissioner for the type of license held. Completion of specified product training required in subdivision (d) of Section 1749.33, subdivision (b) of Section 1749.8, and paragraph (4) of subdivision (a) of Section 10234.93 may result in the completion of more than the minimum of required continuing education hours. The minimum number of hours required is as follows:

(b) During each of the first four 12-month periods following the date of the original license issuance, a minimum of 25 hours.

(c) Any licensee who has complied with subdivision (b) in the first four years, shall thereafter satisfactorily complete 30 hours of instruction prior to renewal of the license. These hours of instruction may be completed at any time prior to renewal of the license.

(d) An individual licensed as a fire and casualty broker-agent and as a life-only agent or an accident and health agent shall satisfy the requirements of this section by demonstrating completion of the courses, programs of instruction, or seminars approved by the commissioner for any of the license types listed in subdivision (a).

(e) A licensee shall not be required to comply with the requirements of this article if the licensee submits proof satisfactory to the commissioner that he or she has been a licensee in good standing for 30 continuous years in this state and is 70 years of age or older.

SEC. 12. Section 1749.31 of the Insurance Code is amended to read:

1749.31. (a) An individual licensed as a personal lines broker-agent shall complete required continuing education courses, programs of instruction, or seminars approved by the commissioner. The minimum number of hours required is 10 hours during each of the calendar years in a license term prior to the renewal of the license.

(b) An individual licensed as a personal lines broker-agent and as a life-only agent or accident and health agent shall satisfy the requirements of this section by satisfactorily completing 24 hours of instruction prior to renewal of the license.

SEC. 13. Section 1749.33 is added to the Insurance Code, to read:

1749.33. (a) A life-only agent licensee shall satisfactorily complete 24 hours of instruction prior to renewal of the license. These hours of instruction may be completed at any time prior to renewal of the license.

(b) An accident and health agent licensee shall satisfactorily complete 24 hours of instruction prior to renewal of the license. These hours of instruction may be completed at any time prior to renewal of the license.

(c) An agent licensed as both a life-only agent and as an accident and health agent shall satisfactorily complete a total of 24 hours of instruction prior to renewal of the license. These hours of instruction may be completed at any time prior to renewal of the license.

(d) Any accident and health agent who wishes to sell 24-hour care coverage, as defined in Section 1749.02, shall complete a course, program of instruction, or seminar of an approved continuing education provider on workers' compensation and general principles of employer liability, which shall be completed by examination approved by the commissioner as part of the continuing education course, program of instruction, or seminar prior to selling this coverage. The required number of instruction hours shall be equal to but no greater than that required by the curriculum board for the precicensing requirements of a fire and casualty broker-agent on these subjects. For resident licensees, this requirement shall count toward the licensee's continuing education requirement, but may still result in completing more than the minimum number of continuing education hours set forth in this section. Nothing in this section shall be deemed to allow an accident and health agent to satisfy the obligations set forth in this section by other than a proctored examination administered or approved by the department.

SEC. 14. Section 1749.8 of the Insurance Code is amended to read:

1749.8. (a) Effective January 1, 2005, every life agent who sells annuities shall satisfactorily complete eight hours of training prior to soliciting individual consumers in order to sell annuities.

(b) Effective January 1, 2005, every life agent who sells annuities shall satisfactorily complete four hours of training every two years prior to license renewal. For resident licensees, this requirement shall count toward the licensee's continuing education requirement, but may still result in completing more than the minimum number of continuing education hours set forth in this section.

(c) The training required by this section shall be approved by the commissioner and shall consist of topics related to annuities, and California law, regulations, and requirements related to annuities, prohibited sales practices, the recognition of indicators that a prospective insured may lack the short-term memory or judgment to knowingly purchase an insurance product, and fraudulent and unfair trade practices. Subject matter determined by the commissioner to be primarily intended to promote the sale or marketing of annuities shall not qualify for credit towards the training requirement. Any course or seminar that is disapproved under the provisions of this section shall be presumed invalid for credit towards the training requirement of this section unless it is approved in writing by the commissioner.

(d) The training requirements set forth in this section shall not apply to nonresident agents representing an insurer that is a direct response provider.

For the purposes of this section, “direct response provider” means an insurer that meets each of the following criteria:

(1) The insurer does not initiate telephone contact with insureds or prospective insureds.

(2) Agents of the insurer speak with insureds and prospective insureds only by telephone, and at the request of the insureds or prospective insureds.

(3) Agents of the insurer are assigned to speak with insureds or prospective insureds on a random basis, when contacted.

(4) Agents of the insurer are salaried and do not receive commissions for sales or referrals.

SEC. 15. Section 10234.93 of the Insurance Code is amended to read: 10234.93. (a) Every insurer of long-term care in California shall:

(1) Establish marketing procedures to assure that any comparison of policies by its agents or other producers will be fair and accurate.

(2) Establish marketing procedures to assure excessive insurance is not sold or issued.

(3) Submit to the commissioner within six months of the effective date of this act, a list of all agents or other insurer representatives authorized to solicit individual consumers for the sale of long-term care insurance. These submissions shall be updated at least semiannually.

(4) Provide the following training and require that each agent or other insurer representative authorized to solicit individual consumers for the sale of long-term care insurance shall satisfactorily complete the following training requirements that, for resident licensees, shall count toward the licensee’s continuing education requirement, but may still result in completing more than the minimum number of continuing education hours set forth in this section:

(A) For licensees issued a license after January 1, 1992, eight hours of training in each of the first four 12-month periods beginning from the date of original license issuance and thereafter eight hours of training prior to each license renewal.

(B) For licensees issued a license before January 1, 1992, eight hours of training prior to each license renewal.

(C) For nonresident licensees that are not otherwise subject to the continuing education requirements set forth in Section 1749.3, the evidence of training required by this section shall be filed with and approved by the commissioner as provided in subdivision (g) of Section 1749.4.

Licensees shall complete the initial training requirements of this section prior to being authorized to solicit individual consumers for the sale of long-term care insurance.

The training required by this section shall consist of topics related to long-term care services and long-term care insurance, including, but not limited to, California regulations and requirements, available long-term care services and facilities, changes or improvements in services or facilities, and alternatives to the purchase of private long-term care insurance. On or before July 1, 1998, the following additional training topics shall be required: differences in eligibility for benefits and tax treatment between policies intended to be federally qualified and those not intended to be federally qualified, the effect of inflation in eroding the value of benefits and the importance of inflation protection, and NAIC consumer suitability standards and guidelines.

(5) Display prominently on page one of the policy or certificate and the outline of coverage: “Notice to buyer: This policy may not cover all of the costs associated with long-term care incurred by the buyer during the period of coverage. The buyer is advised to review carefully all policy limitations.”

(6) Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for long-term care insurance already has accident and sickness or long-term care insurance and the types and amounts of any such insurance.

(7) Every insurer or entity marketing long-term care insurance shall establish auditable procedures for verifying compliance with this subdivision.

(8) Every insurer shall provide to a prospective applicant, at the time of solicitation, written notice that the Health Insurance Counseling and Advocacy Program (HICAP) provides health insurance counseling to senior California residents free of charge. Every agent shall provide the name, address, and telephone number of the local HICAP program and the statewide HICAP number, 1-800-434-0222.

(9) Provide a copy of the long-term care insurance shoppers guide developed by the California Department of Aging to each prospective applicant prior to the presentation of an application or enrollment form for insurance.

(b) In addition to other unfair trade practices, including those identified in this code, the following acts and practices are prohibited:

(1) Twisting. Knowingly making any misleading representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on, or convert any insurance policy or to take out a policy of insurance with another insurer.

(2) High pressure tactics. Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force,

fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance.

(3) Cold lead advertising. Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company.

SEC. 16. Section 4.5 of this bill incorporates amendments to Section 1637 of the Insurance Code proposed by both this bill and AB 797. It shall become operative only if (1) both bills are enacted and become effective on or before January 1, 2008, (2) each bill amends Section 1627 of the Insurance Code, and (3) this bill is enacted after AB 797, in which case Section 4 of this bill shall not become operative.

SEC. 17. Section 10.5. of this bill incorporates amendments to Section 1749 of the Insurance Code proposed by both this bill and AB 797. It shall become operative only if (1) both bills are enacted and become effective on or before January 1, 2008, (2) each bill amends Section 1749 of the Insurance Code, and (3) this bill is enacted after AB 797, in which case Section 10 of this bill shall not become operative.