

AMENDED IN ASSEMBLY APRIL 15, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1416

Introduced by Committee on Insurance (Assembly Members Solorio (Chair), Hagman (Vice Chair), Carter, Feuer, Skinner, Torres, and Wieckowski)

March 21, 2011

An act to amend Sections 33.5, 137, 713, 769.55, 769.82, 778.4, 827.8, ~~1071, 1073~~, 1625, 1625.5, 1625.55, 1627, 1635, 1649.5, 1661, 1662, 1665, 1675, 1676, 1679, 1686, 1693, 1704, 1705, 1707.51, 1707.7, 1712.5, 1725, 1728, 1729.5, 1730.5, 1730.6, 1735, 1735.5, 1747, 1749, 1749.2, 1749.33, 1749.4, 1749.8, 1749.85, 1750, 1750.5, 1751, 1751.3, 1755, 1757.2, 1758.2, 1758.3, 1758.87, 1758.98, 1765.3, 10236.1, 10785, ~~11623~~, 11691, 12815, and 12938 of, and to repeal ~~Sections 1074~~ and *Section* 1680 of, the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1416, as amended, Committee on Insurance. Insurance omnibus.

(1) Existing law defines the fire and casualty broker-agent license as 2 insurance license types: property broker-agent licenses, for insurance coverage on the direct or consequential loss or damage to property of every kind, and casualty broker-agent licenses, for insurance coverage against legal liability, including for death, injury, disability, or damage to real or personal property.

This bill would remove references to fire and casualty broker-agent and substitute the terms property broker-agent and casualty broker-agent in order to make conforming changes.

~~(2) Existing law requires the Insurance Commissioner to publish certain information with regard to insurers admitted to do business in this state by means of newspapers, as provided.~~

~~This bill would instead require the commissioner to publish that information on the department's Internet Web site for 7 days.~~

(2) Existing law requires insurers to file certain documents with the Insurance Commissioner. Existing law also requires a copy of the instrument or record of the action making any changes to those documents, proved by certificates of custodian of the original, or by affidavit, be filed with the commissioner.

This bill would make the above requirements regarding changes in the filed documents applicable to domestic insurers, and would make those requirements applicable to a foreign or alien insurer upon request.

(3) Existing law requires an insurer, in order to be admitted in this state to transact specified workers' compensation transactions, among other things, to deposit cash instruments or approved interest-bearing securities or approved stocks readily convertible into cash, investment certificates, or share accounts issued by a savings and loan association doing business in this state and insured by the Federal Deposit Insurance Corporation, certificates of deposit, or savings deposits in a bank licensed to do business in this state.

This bill would include as an authorized workers' compensation depository a bank that is either domiciled in and with its principal place of business in this state or is a national banking association with a trust office located in this state.

(4) Existing law, subject to certain exceptions, requires a nonresident applicant for an organizational insurance license to name at least one person from their home state who may exercise the power and perform the duties under their license. Additional persons endorsed to that license may be residents of another state, but may not be residents of California.

This bill would instead require a nonresident applicant for an organizational insurance license to name at least one person from a state other than California who may exercise the power and perform the duties under their license. The bill would also require that additional persons endorsed to that license may be residents of other states, including California.

(5) Existing law authorizes certain broker-agents to act as insurance solicitors.

This bill would include personal lines broker-agents and limited lines automobile insurance agents as those persons who can act as insurance solicitors, as provided.

(6) Existing law requires the Department of Insurance to make available for public inspection and publish on its Internet Web site, among other things, every adopted report of an examination of unfair or deceptive business practices that is adopted as filed, or as modified or corrected, by the commissioner, as provided. Existing law provides for transmittal of the adopted report by certified mail, a 10-day insurer comment period, and a 10-business day publication requirement, after the transmittal.

This bill would clarify that the published document would be a market conduct examination. The bill would authorize electronic transmittal of the adopted report, as provided, provide for a 20-day insurer comment period, and require publication 20 business days after the transmittal.

(7) Existing law creates a 15-member advisory committee to assist the commissioner in carrying out the assigned risk plan that offers automobile insurance coverage, as provided, to applicants who are in good faith entitled to coverage but are unable to procure it. All insurer representatives on the advisory committee are required to be salaried employees.

This bill would instead require that each insurer representative serving be either a salaried employee or officer of the named insurer or a salaried employee or officer of another insurer from a group of insurance companies under the same management as the named insurer. The bill would also authorize a salaried employee or officer of the holding company of the named insurer to be designated as the representative.

~~(7)~~

(8) This bill would make technical, conforming, and related changes and delete obsolete provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

- 1 SECTION 1. Section 33.5 of the Insurance Code is amended
- 2 to read:
- 3 33.5. (a) "Casualty broker-agent" means a person licensed
- 4 pursuant to Section 1625.

1 (b) “Property broker-agent” means a person licensed pursuant
2 to Section 1625.

3 SEC. 2. Section 137 of the Insurance Code is amended to read:

4 137. (a) No person, firm, association, or corporation shall act
5 or aid in any manner in soliciting, negotiating, or procuring liability
6 insurance in this state from a risk retention group unless that
7 person, firm, association, or corporation is licensed as a property
8 broker-agent or a casualty broker-agent in accordance with Chapter
9 5 (commencing with Section 1621) of Part 2 and is authorized to
10 act as an insurance broker; except salaried employees or officers
11 of a risk retention group, provided no part of the compensation of
12 ~~such~~ that person is on a commission basis or otherwise based on
13 production of business.

14 (b) No person, firm, association, or corporation shall act or aid
15 in any manner in soliciting, negotiating, or procuring liability
16 insurance from an insurer not authorized to do business in this
17 state on behalf of a purchasing group located in this state unless
18 that person, firm, association, or corporation is licensed as a surplus
19 line broker in accordance with Chapter 6 (commencing with
20 Section 1760) of Part 2. A nonresident person may be licensed as
21 a surplus lines broker for purposes of placing insurance on behalf
22 of a purchasing group.

23 (c) Any person, firm, association, or corporation licensed
24 pursuant to Chapter 5 (commencing with Section 1621) of Part 2,
25 on business placed with risk retention groups or written through
26 a purchasing group, shall inform each prospective insured of the
27 provisions of the notice required by subdivision (g) of Section 132
28 in the case of a risk retention group and subdivision (b) of Section
29 135 in the case of a purchasing group.

30 SEC. 3. Section 713 of the Insurance Code is amended to read:

31 713. (a) A copy of the instrument or record of the action
32 making any change in any of the documents filed with the
33 commissioner pursuant to this article *by a domestic insurer*, proved
34 by certificates of custodian of the original, or by affidavit, shall
35 be filed with the commissioner.

36 (b) *Upon request, a foreign or alien insurer shall file any change*
37 *proved by certificates of custodian of the original, or by affidavit.*

38 ~~SEC. 3.~~

39 SEC. 4. Section 769.55 of the Insurance Code is amended to
40 read:

1 769.55. (a) Notwithstanding any other provision of this code,
2 for the purposes of Chapter 6 (commencing with Section 520)
3 through Chapter 11 (commencing with Section 675), inclusive of
4 Part 1 of Division 1, the obligation of an insurer to furnish any
5 notice to its insured required by law may be carried out by an
6 insurer's general agent, provided, however, that an insurer's
7 delegation of a notice obligation to a general agent shall not limit
8 or negate the insurer's responsibility or liability if the general agent
9 fails to provide the required notice.

10 (b) As used in this section, "general agent" means a licensed
11 property broker-agent or a licensed casualty broker-agent who,
12 pursuant to a written contract with an admitted insurer manages
13 the transaction of one or more classes of insurance written by the
14 insurer and has the power to (1) appoint, supervise, and terminate
15 local agents, (2) accept or decline risks, and (3) collect premium
16 moneys from producing broker-agents.

17 (c) Nothing in this section shall provide an exemption from
18 Article 5.4 (commencing with Section 769.80) to any property
19 broker-agent or any casualty broker-agent who is otherwise subject
20 to that article.

21 ~~SEC. 4.~~

22 *SEC. 5.* Section 769.82 of the Insurance Code is amended to
23 read:

24 769.82. (a) No producer shall act in the capacity of an MGA
25 with respect to risks located in this state for an insurer that holds
26 a certificate of authority unless that producer is licensed as a
27 property broker-agent, casualty broker-agent, or as a life agent in
28 this state.

29 (b) No producer shall act in the capacity of an MGA representing
30 an insurer domiciled in this state with respect to risks located
31 outside this state unless that producer is licensed as a property
32 broker-agent, casualty broker-agent, or as a life agent in this state.

33 (c) The commissioner may require a fidelity bond in an amount
34 acceptable to him or her for the protection of the insurer.

35 (d) The commissioner may require the MGA to maintain an
36 errors and omissions policy. If a policy is not generally available
37 at a reasonable cost, the commissioner may, by rule, suspend the
38 requirement of this subdivision until that coverage becomes
39 generally available at a reasonable cost.

1 ~~SEC. 5.~~

2 *SEC. 6.* Section 778.4 of the Insurance Code is amended to
3 read:

4 778.4. (a) Every property broker-agent and every casualty
5 broker-agent shall, prior to arranging premium financing for any
6 new or renewal policy of insurance specified in Section 660, do
7 all of the following:

8 (1) Provide the applicant or prospective insured with any
9 information that is required by the federal Truth in Lending Act
10 (15 U.S.C. Sec. 1601 et seq.).

11 (2) Obtain the signature of the applicant or prospective insured
12 on the following disclosure, which shall be in 10-point bold face
13 type on a separate form or sheet of paper:

14 Some insurance companies and the California Automobile
15 Assigned Risk Plan (CAARP) provide the opportunity to make
16 payments on insurance premiums. Your agent or broker is required
17 to disclose these options, if any are available for the insurance you
18 are purchasing. If you choose to enter into a contract that provides
19 for premium financing, your agent is required by law to make
20 certain disclosures concerning interest, fees, or other charges. If
21 your insurance has been financed by any person or business other
22 than your insurance company, and your insurance is canceled for
23 any reason, your loan may be subject to continued interest charges,
24 or other charges that may result from delays by your insurance
25 company in repaying the premium finance company. You should
26 understand all of the charges associated with your financing plan.
27 If you are uncertain about how the financing plan works, you
28 should ask your insurance agent or broker.

29 (b) Every property broker-agent and every casualty agent-broker
30 shall comply with the requirements of the Consumer Contract
31 Awareness Act of 1990 (Title 1.86 (commencing with Section
32 1799.200) of Part 4 of Division 3 of the Civil Code) to the extent
33 that its provisions are applicable to any transaction subject to this
34 section.

35 (c) If a transaction subject to subdivision (a) is conducted over
36 the telephone, the property-broker agent and the casualty
37 broker-agent shall be deemed to have complied with the
38 requirements of subdivision (a) if, within 72 hours after transacting
39 the contract or agreement, the disclosure form and other
40 information required by subdivision (a) is mailed to the applicant

1 or insured at the address provided by the applicant or insured.
2 Proof of mailing shall be established by the method described in
3 Section 38.

4 ~~SEC. 6.~~

5 *SEC. 7.* Section 827.8 of the Insurance Code is amended to
6 read:

7 827.8. An offer or sale of voting common stock or preferred
8 stock of and by a foreign or alien insurer to property broker-agents
9 or casualty broker-agents, as defined in Section 33.5, shall be
10 exempt from the requirements of this article if all of the following
11 requirements are met:

12 (a) The sale shall not be made to more than 35 property
13 broker-agents and casualty broker-agents in the State of California.

14 (b) Each property-broker agent and each casualty broker-agent
15 to whom an offer is made is an “accredited investor” as defined
16 in Regulation D under the Federal Securities Act of 1933, as
17 amended.

18 (c) Each property-broker agent and each casualty broker-agent
19 to whom an offer is made meets all of the following requirements:

20 (1) The broker-agent shall have been appointed by the admitted
21 insurer for a period of at least one year and that admitted insurer
22 shall meet all of the following requirements:

23 (A) Be authorized to transact property and casualty insurance.
24 For purposes of this section, property and casualty insurance means
25 insurance falling within classes 2, 3, 7, 8, 10, 11, 12, 14, 15, 16,
26 18, and 20 under Section 100 except home protection contracts,
27 as defined in Section 12740.

28 (B) Have at least four hundred million dollars (\$400,000,000)
29 of statutory capital and surplus.

30 (C) Hold a certificate of authority in good standing with this
31 state and have no regulatory action relating to financial hazard or
32 fraud against the company in the last three years from states,
33 including this state, where the insurer is authorized as an admitted
34 insurer to do business.

35 (D) Is currently reinsuring or has definite plans to reinsure
36 business produced by that broker-agent with the same foreign or
37 alien insurer offering securities to the broker-agent.

38 (2) The broker-agent generates five million dollars (\$5,000,000)
39 in premiums per year and plans on transferring or writing at least
40 one million dollars (\$1,000,000) per year with the admitted insurer.

1 (3) The broker-agent shall pay at least fifty thousand dollars
2 (\$50,000) for the securities purchased in the transaction but not in
3 excess of five hundred thousand dollars (\$500,000).

4 (4) The broker-agent shall have a net worth of at least five
5 million dollars (\$5,000,000).

6 (d) The offer and sale of stock is accompanied by the prospectus,
7 private placement memorandum, together with any other
8 information required pursuant to Regulation D of the Federal
9 Securities Act of 1933.

10 (e) The consideration received by the issuer for the stock to be
11 issued consists solely of cash.

12 (f) No promotional consideration or selling expenses have been
13 given, paid, or incurred in connection with the issuance of stock,
14 and the offer and sale of stock is not accompanied by the
15 publication of any advertisement.

16 (g) All stock issued shall be evidenced by a certificate that shall
17 have a notice printed prominently on its face restricting the transfer
18 of the stock solely to the issuer or investors who have been
19 shareholders of the issuer for at least three years and who are
20 approved by at least 51 percent of the members of the board of
21 directors of the issuer.

22 (h) The issuer of both the common and preferred stock shall be
23 all of the following:

24 (1) A foreign or alien insurer that does not transact insurance
25 directly in California, but is solely a reinsurer.

26 (2) A reinsurer that only reinsures commercial lines property
27 and casualty insurance, as specified in subparagraph (A) of
28 paragraph (1) of subdivision (c).

29 ~~SEC. 7. Section 1071 of the Insurance Code is amended to~~
30 ~~read:~~

31 ~~1071. The commissioner shall publish an application for~~
32 ~~withdrawal on the department's Internet Web site for a period of~~
33 ~~seven days.~~

34 ~~SEC. 8. Section 1073 of the Insurance Code is amended to~~
35 ~~read:~~

36 ~~1073. Whenever any insurer withdraws from business in this~~
37 ~~state, and whenever for any reason the commissioner revokes or~~
38 ~~canels the certificate of authority admitting any insurer, the~~
39 ~~commissioner shall publish the withdrawal, revocation, or~~

1 ~~cancellation on the department's Internet Web site for a period of~~
2 ~~seven days.~~

3 ~~SEC. 9. Section 1074 of the Insurance Code is repealed.~~

4 ~~SEC. 10.~~

5 *SEC. 8.* Section 1625 of the Insurance Code is amended to
6 read:

7 1625. (a) A property licensee or a casualty licensee is a person
8 authorized to act as an insurance agent, broker, or solicitor, and a
9 property broker-agent license or a casualty broker-agent license
10 is a license so to act.

11 (b) Licenses to act as a property broker-agent under this chapter
12 shall

13 entitle the licensee to transact insurance coverage on the direct
14 or consequential loss or damage to property of every kind.

15 (c) Licenses to act as a casualty broker-agent shall entitle the
16 licensee to transact insurance coverage against legal liability,
17 including that for death, injury, disability, or damage to real or
18 personal property.

19 ~~SEC. 11.~~

20 *SEC. 9.* Section 1625.5 of the Insurance Code is amended to
21 read:

22 1625.5. (a) A personal lines licensee is a person authorized to
23 transact automobile insurance, as defined in Section 660, including
24 insurance for recreational vehicles used for noncommercial
25 purposes, personal watercraft insurance, residential property
26 insurance, as defined in Section 10087, including earthquake and
27 flood insurance, inland marine insurance covering personal
28 property, and umbrella or excess liability insurance providing
29 coverage when written over one or more underlying automobile
30 or residential property insurance policies, and a personal lines
31 broker-agent license is a license to so act.

32 (b) A license under this section shall be applied for and renewed,
33 following successful completion of a qualifying examination on
34 this code, ethics, and products sold under the license, in the same
35 manner as is provided in this chapter for a license to act as a
36 property broker-agent or a casualty broker-agent, except as
37 provided in subdivision (c) or where provided otherwise.

38 (c) A person licensed as a personal lines agent who makes an
39 application to the commissioner to become a property broker-agent

1 or a casualty broker-agent pursuant to Section 1625 shall do all of
2 the following:

3 (1) Submit an application on a form provided by the
4 commissioner.

5 (2) Complete prelicensing education as specified in Section
6 1749.

7 (3) Take and pass a qualifying examination pursuant to Section
8 1676.

9 (d) Notwithstanding any other provision of law, for a personal
10 lines license:

11 (1) "License term" for a personal lines license means all of that
12 two-year period beginning as described in either subdivision (a)
13 or (b) of Section 1629, as applicable, and ending the second
14 succeeding year on the last calendar day of the month in which
15 the initial license was issued.

16 (2) "License year" for a personal lines license shall be
17 determined for each entity as follows:

18 (A) Upon initial licensing, the license year starts on the date the
19 license is issued.

20 (B) Subsequently, each license year starts the first day of the
21 month following the month in which the initial license was issued.

22 (C) A license year ends the following calendar year on the last
23 calendar day of the month in which the initial license was issued.

24 ~~SEC. 12.~~

25 *SEC. 10.* Section 1625.55 of the Insurance Code is amended
26 to read:

27 1625.55. (a) A limited lines automobile insurance agent is a
28 person authorized to transact automobile insurance, as defined in
29 Section 660. A limited lines automobile insurance agent license
30 is a license to so act.

31 (b) A license under this section shall be applied for and renewed,
32 following successful completion of a qualifying examination on
33 this code, ethics, and products sold under the license, in the same
34 manner as provided in this chapter for a license to act as a property
35 broker-agent or a casualty broker-agent.

36 (c) The commissioner shall require in advance a fee for filing
37 any applications, renewals thereof, or changes in outstanding
38 licenses, or for the filing of other required documents at an amount
39 designated in this chapter for a personal lines licensee, and for

1 filing any notice of appointment or notice of termination at an
2 amount specified in Section 1751.3.

3 (d) A person licensed as a limited lines automobile insurance
4 agent who makes an application to the commissioner to become
5 a property broker-agent or a casualty broker-agent pursuant to
6 Section 1625 or a personal lines agent pursuant to Section 1625.5
7 shall do all of the following:

8 (1) Submit an application on a form provided by the
9 commissioner.

10 (2) Complete prelicensing education as specified in Section
11 1749.

12 (3) Take and pass a qualifying examination pursuant to Section
13 1676.

14 ~~SEC. 13.~~

15 *SEC. 11.* Section 1627 of the Insurance Code is amended to
16 read:

17 1627. A license is a permit to act in the capacity specified
18 therein. A person licensed is the holder of the license. In case of
19 a license to act as a life agent,, property broker-agent, or casualty
20 broker-agent issued to an organization, the organization is the
21 holder thereof, but the natural person or persons named thereon
22 are thereby permitted to exercise the agency or brokerage powers
23 of the organization in accordance with and subject to the provisions
24 of this chapter and other applicable law. As used in this chapter,
25 the term “license” includes a certificate of convenience and a
26 permanent license, and the term “persons who are licensed”
27 includes the holders of any such certificate or the license, but these
28 definitions and the use of those terms in this chapter shall not
29 confer upon a certificate of convenience or any holder thereof any
30 property right in or to the certificate, the certificate being and
31 remaining only a temporary permit, issued as a matter of
32 convenience, allowing the transaction of insurance without a
33 permanent license, but within the limits, and subject to the
34 conditions of the certificate of convenience issued and the laws
35 applicable thereto.

36 ~~SEC. 14.~~

37 *SEC. 12.* Section 1635 of the Insurance Code is amended to
38 read:

39 1635. No license is required under the provisions of this chapter
40 for a person to act in the following capacities or to engage in the

1 following activities, providing no commission is paid or allowed,
2 directly or indirectly, by the insurer, creditor, retailer, or other
3 person for acting in those capacities or engaging in those activities:

4 (a) The business of examining, certifying, or abstracting titles
5 to real property.

6 (b) The solicitation for membership in a fraternal benefit society
7 and other activities to the extent and as described in Sections 11013
8 and 11102 of this code.

9 (c) As a salaried representative of a reciprocal or interinsurance
10 exchange or of its attorney in fact.

11 (d) Employment ~~which~~ *that* does not include the solicitation,
12 negotiation, or effecting of contracts of insurance and the signing
13 of policies or other evidences of insurance.

14 (e) As an officer of an insurer or a salaried traveling employee
15 of the type commonly known as a special agent or as an agency
16 supervisor, while performing duties and exercising functions that
17 are commonly performed by a special agent or agency supervisor,
18 if the person engaging in the activity does not do either of the
19 following:

20 (1) Effect insurance.

21 (2) Solicit or negotiate insurance except as a part of and in
22 connection with the business of a property broker-agent, casualty
23 broker-agent, or life agent licensed under this chapter.

24 (f) As an officer or salaried representative of a life insurer if his
25 or her activities are limited to direct technical advice and assistance
26 to a properly licensed person and his or her activities do not include
27 effecting, soliciting, or negotiating insurance except as a part of
28 and in connection with the business of a property broker-agent,
29 casualty broker-agent, or life agent licensed under this chapter.

30 (g) Employment by an insurer at its home or branch office ~~which~~
31 *that* does not include the solicitation, negotiation, or effecting of
32 contracts of insurance, and ~~which~~ *that* may as part thereof include
33 the signing of policies or other evidences of insurance.

34 (h) The completion or delivery of a declaration or certificate of
35 coverage under a running inland marine insurance contract
36 evidencing coverage thereunder and including only those
37 negotiations as are necessary to the completion or delivery if the
38 person performing those acts or his or her employer has an
39 insurable interest in the risk covered by the certificate or
40 declaration.

1 (i) As an employee of a licensed property broker-agent or
2 casualty broker-agent, whose employment is one or more of the
3 following:

4 (1) That of a regularly salaried administrative or clerical
5 employee whose activities do not include the solicitation,
6 negotiation, or effecting of contracts of insurance from the insuring
7 public.

8 (2) That of a salesperson who devotes substantially all of his or
9 her activities to selling merchandise and whose solicitation of
10 insurance is limited only to the quoting of a premium for insurance
11 to be included in the purchase price covering the interest retained
12 in the merchandise by the seller.

13 (j) The solicitation, negotiation, or effectuation of home
14 protection contracts by a person licensed pursuant to Part 1
15 (commencing with Section 10000) of Division 4 of the Business
16 and Professions Code in connection with his or her licensed
17 function authorized by Section 10131 or 10131.6 of the Business
18 and Professions Code. The receipt of a payment permitted by
19 Section 12760 shall not disqualify the recipient from the licensing
20 exemption provided by this chapter.

21 (k) Employees of an insurer whose duties are the inspection,
22 processing, adjusting, investigation, settling of claims, conducting
23 safety inspections, or accepting or rejecting business from licensed
24 insurance agents or brokers.

25 (l) Officers, directors, or employees of an insurer or producer
26 whose executive, administrative, managerial, or clerical activities
27 are only indirectly related to solicitation, negotiation, or effecting
28 the sale of insurance, provided those persons do not have direct
29 contact with consumers in a sales or service capacity except as
30 otherwise provided by this section.

31 (m) Employees whose activities are limited to making clerical
32 changes in existing policies or providing indirect marketing and
33 servicing support for the purpose of determining general interest
34 in insurance products.

35 ~~SEC. 15.~~

36 *SEC. 13.* Section 1649.5 of the Insurance Code is amended to
37 read:

38 1649.5. Notwithstanding Section 1642, an insurer may own or
39 control, whether directly or indirectly, a separate entity licensed
40 under this chapter as a property broker-agent, casualty

1 broker-agent, or life agent as defined in Section 1621, 1622, or
2 1623, respectively. Insurance transacted by a property broker-agent
3 or a casualty broker-agent with and on behalf of the owning or
4 controlling insurer shall be in its capacity as an insurance agent.

5 ~~SEC. 16.~~

6 *SEC. 14.* Section 1661 of the Insurance Code is amended to
7 read:

8 1661. Whenever an organization licensed as a life agent,
9 property broker-agent, casualty broker-agent, personal lines
10 broker-agent, or limited lines automobile insurance agent desires
11 to change, remove, or add to the natural person or persons who
12 are to transact insurance under authority of its license, it shall
13 immediately file an application or notice on a form prescribed by
14 the commissioner with the commissioner for an endorsement
15 changing its license accordingly. The form shall be submitted by
16 a means of electronic service approved by the commissioner. The
17 commissioner shall require that the prelicensing education
18 standards set forth in Section 1749 be met and that the qualifying
19 examination provided by this code be taken by any natural person
20 named by the organization to exercise its agency or brokerage
21 powers who would be required to take and pass the qualifying
22 examination. That natural person or persons and the organization
23 are in all other respects subject to the provisions of this chapter
24 and the insurance laws.

25 ~~SEC. 17.~~

26 *SEC. 15.* Section 1662 of the Insurance Code is amended to
27 read:

28 1662. A property broker-agent and a casualty broker-agent
29 shall, prior to acting in the capacity of an insurance broker, file
30 and continuously maintain in force the bond required by this article.
31 Any authority to act as broker shall automatically terminate
32 immediately upon there being no bond in force.

33 ~~SEC. 18.~~

34 *SEC. 16.* Section 1665 of the Insurance Code is amended to
35 read:

36 1665. The bond of a property broker-agent and a casualty
37 broker-agent shall be in the amount of ten thousand dollars
38 (\$10,000). The bond shall be contingent on the accounting by the
39 property broker-agent or the casualty broker-agent to any person
40 requesting insurance, for moneys or premiums collected by the

1 property broker-agent or the casualty broker-agent when acting as
2 a broker for insurance other than life.

3 ~~SEC. 19.~~

4 *SEC. 17.* Section 1675 of the Insurance Code is amended to
5 read:

6 1675. Except as provided in Section 1680, the following
7 applicants who have theretofore been licensed under this code are
8 exempt from the requirements of this article:

9 (a) An applicant for a license to act as a property broker-agent
10 or a casualty broker-agent who has been licensed as a property
11 broker-agent, casualty broker-agent, or surplus line broker during
12 any part of the license year in which the application is filed or the
13 immediately preceding license year.

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

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

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

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

26 (f) A nonresident licensee who applies for a property
27 broker-agent, casualty broker-agent, personal lines broker-agent,
28 or life agent resident license in this state, and who is currently
29 licensed for the same lines of authority in the state of his or her
30 current resident license, shall not be required to complete an
31 examination. The application shall be received within 90 days of
32 the cancellation of the applicant's resident license and the producer
33 database records, maintained by the National Association of
34 Insurance Commissioners, shall indicate that the producer is
35 licensed in good standing for the line of authority requested.

36 ~~SEC. 20.~~

37 *SEC. 18.* Section 1676 of the Insurance Code is amended to
38 read:

39 1676. (a) Except as set forth in Sections 1675 and 1679, the
40 commissioner shall not issue a permanent license pursuant to this

1 chapter to an applicant therefor unless the applicant has within the
 2 12-month period next preceding the date of issue of the license
 3 taken and passed the qualifying examination for that license. This
 4 section shall not apply to a person licensed as a property
 5 broker-agent or as a casualty broker-agent who applies for a license
 6 as a personal lines broker-agent.

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

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

24 ~~SEC. 21.~~

25 *SEC. 19.* Section 1679 of the Insurance Code is amended to
 26 read:

27 1679. (a) A nonresident applicant for a license shall be subject
 28 to the same qualifying examination as is required of a resident
 29 applicant. The examination may be administered to an eligible
 30 nonresident applicant through the insurance authority of the state,
 31 territory of the United States, or province of Canada of his or her
 32 residence; provided, however, that the commissioner may, in his
 33 or her discretion, enter into a reciprocal arrangement with the
 34 officer having supervision of the insurance business in any other
 35 state, territory of the United States, or province of Canada whose
 36 qualification standards for the applicant to be examined are
 37 substantially the same as or in excess of those of this state, to
 38 accept, in lieu of the examination of an applicant residing therein,
 39 a certificate of the officer to the effect that the applicant is licensed
 40 in that state, territory of the United States, or province of Canada

1 in a capacity similar to that for which a license is sought in this
2 state and has complied with its qualification standards in respect
3 to all of the following:

4 (1) Experience or training.

5 (2) Reasonable familiarity with the broad principles of insurance
6 licensing and regulatory laws and with the provisions, terms, and
7 conditions of the insurance which the applicant proposes to
8 transact.

9 (3) A fair and general understanding of the obligations and
10 duties of a holder of the license sought.

11 (b) The provisions of this section shall not apply to a nonresident
12 applicant who maintains a license in a jurisdiction that grants
13 reciprocity to California residents in accordance with Section
14 1638.5.

15 (c) A nonresident applicant for an organizational license shall
16 name at least one person from a state other than California who
17 may exercise the power and perform the duties under their license.
18 Additional persons endorsed to that license may be residents of
19 other states, including California.

20 ~~SEC. 22.~~

21 *SEC. 20.* Section 1680 of the Insurance Code is repealed.

22 ~~SEC. 23.~~

23 *SEC. 21.* Section 1686 of the Insurance Code is amended to
24 read:

25 1686. To be eligible for an estate certificate of convenience, a
26 person shall be one of the following:

27 (a) The executor or administrator of the estate of a deceased
28 property broker-agent, casualty broker-agent, or life agent.

29 (b) If no executor or administrator has been appointed, the
30 surviving spouse or heir otherwise entitled to conduct the business
31 of the deceased property broker-agent, casualty broker-agent, or
32 life agent.

33 (c) The conservator of the estate of a property broker-agent,
34 casualty broker-agent, or life agent.

35 ~~SEC. 24.~~

36 *SEC. 22.* Section 1693 of the Insurance Code is amended to
37 read:

38 1693. An estate certificate of convenience expires upon the
39 happening of any of the following events, whichever occurs first:

1 (a) Upon the filing with the commissioner of a certified copy
2 of an order appointing an executor or administrator, if the certificate
3 of convenience has been issued to a person other than the person
4 so appointed executor or administrator.

5 (b) Upon the filing with the commissioner of a certified copy
6 of an order appointing a new conservator of the estate of a property
7 broker-agent, casualty broker-agent, or life agent.

8 (c) Upon the disposal of the business of the property
9 broker-agent, casualty broker-agent, or life agent who is deceased
10 or for whom a conservator of the estate has been appointed.

11 (d) Upon the expiration of one year after the death of the
12 deceased property broker-agent, casualty broker-agent, or life
13 agent; provided, however, that if during the said year the holder
14 of the certificate of convenience files an application for a license
15 to act as a property broker-agent, casualty broker-agent, or life
16 agent in his or her individual capacity, then the certificate of
17 convenience may remain in force until the holder thereof has been
18 given an opportunity to take the qualifying examination for the
19 license.

20 (e) Upon the termination of the conservatorship of the estate of
21 the property broker-agent, casualty broker-agent, or life agent.

22 ~~SEC. 25.~~

23 *SEC. 23.* Section 1704 of the Insurance Code is amended to
24 read:

25 1704. (a) Any person acting as a licensee under this chapter
26 shall not act as an agent of an insurer unless the insurer has filed
27 with the commissioner a notice of appointment, executed by the
28 insurer, appointing the licensee as the insurer's agent. Every
29 property broker-agent, casualty broker-agent, personal lines
30 broker-agent, or limited lines automobile insurance agent acting
31 in the capacity of an insurance solicitor shall have filed on his or
32 her behalf with the commissioner a notice executed by an insurance
33 agent or insurance broker appointing and agreeing to employ the
34 solicitor as an employee within this state. Additional notices of
35 appointment may be filed by other insurers before the license is
36 issued and thereafter as long as the license remains in force. The
37 authority to transact insurance given to a licensee by an insurer,
38 property broker-agent, casualty broker-agent, personal lines
39 broker-agent, or limited lines automobile insurance agent, as the
40 case may be, by appointment shall be effective as of the date the

1 notice of appointment is signed. That authority to transact shall
2 apply to transactions occurring after that date and for the purpose
3 of determining the insurer's, property broker-agent's, casualty
4 broker-agent's, personal lines broker-agent's, or limited lines
5 automobile insurance agent's liability for acts of the appointed
6 licensee. No notice of appointment of a life agent, property
7 broker-agent, casualty broker-agent, personal lines broker-agent,
8 limited lines automobile insurance agent, or travel insurance agent
9 shall be filed under this subdivision unless the licensee being
10 appointed has consented to that filing. Each appointment made
11 under this subdivision shall by its terms continue in force until:

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

14 (2) The filing of a notice of termination by the insurer or
15 employing property broker-agent or casualty broker-agent, or by
16 the appointed life agent, property broker-agent, casualty
17 broker-agent, travel insurance agent, or insurance solicitor.

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

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

32 (d) A property broker-agent or a casualty broker-agent
33 appointing an insurance solicitor pursuant to this section, if a
34 natural person, shall be the holder of a permanent license to act as
35 ~~a such~~ *such a* broker-agent or the holder of a certificate of
36 convenience so to act issued pursuant to either subdivision (a) or
37 (b) of Section 1685. If the property broker-agent or the casualty
38 broker-agent is an organization, it shall be the holder of a
39 permanent license.

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

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

20 ~~SEC. 26:~~

21 *SEC. 24.* Section 1705 of the Insurance Code is amended to
22 read:

23 1705. An insurer, or employing property broker-agent or
24 casualty broker-agent, by filing a notice of appointment on behalf
25 of an applicant for an original license pursuant to Section 1704,
26 and who is not then licensed pursuant to this chapter or Chapter 6
27 (commencing with Section 1760), Chapter 7 (commencing with
28 Section 1800), shall be deemed by that act to have declared that:

29 (a) The applicant is of good reputation.

30 (b) The applicant is worthy of the license sought.

31 An insurer, property broker-agent, or casualty broker-agent, by
32 filing a notice of appointment on behalf of an applicant for an
33 original license to act as a life agent, property broker-agent,
34 casualty broker-agent, or insurance solicitor, where the applicant
35 for any reason will not be issued a certificate of convenience
36 pending examination under Article 8 (commencing with Section
37 1685), shall be deemed to have declared that the applicant has had
38 experience or instruction in classes of insurance, the transaction
39 of which is authorized by the license sought, or will be given the

1 necessary instruction within 30 days after the issuance of the
2 license.

3 Should the applicant for a life agent's, property broker-agent's,
4 or casualty broker-agent's license be a copartnership, corporation,
5 or association, the insurer filing the appointment shall be deemed
6 to have made the declarations set forth in subdivisions (a) and (b)
7 of this section as regards both the business organization and each
8 natural person whose name appears in the application as one to
9 exercise the agency powers of the license sought. The insurer shall
10 be deemed to have made the declaration in the preceding paragraph
11 only as regards the natural person or persons to be named on the
12 organization's license initially.

13 Whenever a copartnership, corporation, or association licensed
14 as a life agent, property broker-agent, or casualty broker-agent
15 files to add to any such license the name of a natural person to
16 exercise the agency powers thereunder, the business organization
17 shall be deemed to have made the appropriate declarations
18 regarding the natural person, as set forth in this section, as are
19 required of an insurer filing a notice of appointment on behalf of
20 an applicant for an original license.

21 ~~SEC. 27.~~

22 *SEC. 25.* Section 1707.51 of the Insurance Code is amended
23 to read:

24 1707.51. (a) Notwithstanding any other provision of law,
25 qualified applicants who applied in proper form and requested an
26 examination date for a property, casualty, or life insurance license
27 prior to December 1, 1991, shall be provided the opportunity to
28 qualify for licensure under statutory licensure provisions in effect
29 on December 31, 1991.

30 (b) The department may require the applicant to execute a sworn
31 statement subject to a penalty of perjury and denial of license
32 declaring that they meet the qualifications set forth in subdivision
33 (a). The department shall provide public notice as to the availability
34 of these tests and as to the procedure and requirements necessary
35 to qualify for the test. The tests shall be administered within 90
36 days of enactment of this section.

37 ~~SEC. 28.~~

38 *SEC. 26.* Section 1707.7 of the Insurance Code is amended to
39 read:

1 1707.7. As part of the report required under Section 12922,
 2 the commissioner shall provide the following information for the
 3 previous calendar year ending December 31 for five years after
 4 the operative date of this section:

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

10 (b) The total number of licensees issued a fire and casualty
 11 license, a property broker-agent license, a casualty broker-agent
 12 license, a personal lines license, a limited lines automobile license,
 13 a life-only license, and an accident and health license.

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

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

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

25 ~~SEC. 29.~~

26 *SEC. 27.* Section 1712.5 of the Insurance Code is amended to
 27 read:

28 1712.5. (a) The license of an organization licensed as a
 29 property broker-agent, casualty broker-agent, or life agent shall
 30 become inoperative upon the removal or termination of the last
 31 natural person named thereon.

32 (b) Unless the license is reactivated by the correction of all
 33 deficiencies including, if necessary, the adding of a natural person
 34 to transact insurance under the authority of the organization's
 35 license pursuant to Section 1661, the license shall not be renewed.

36 ~~SEC. 30.~~

37 *SEC. 28.* Section 1725 of the Insurance Code is amended to
 38 read:

39 1725. Every license to act as a property broker-agent and every
 40 license to act as a casualty broker-agent shall be prominently

1 displayed by the holder thereof in his or her office in a manner
2 whereby anyone may readily inspect it and ascertain both its
3 currency and the capacity in which its holder is licensed to act.

4 ~~SEC. 31.~~

5 *SEC. 29.* Section 1728 of the Insurance Code is amended to
6 read:

7 1728. Every resident insurance property broker-agent and every
8 resident insurance casualty broker-agent shall maintain a principal
9 office in this state for the transaction of business. The address of
10 the office shall, pursuant to Section 1658, be specified on all
11 applications for license and renewal applications.

12 ~~SEC. 32.~~

13 *SEC. 30.* Section 1729.5 of the Insurance Code is amended to
14 read:

15 1729.5. A property broker-agent, casualty broker-agent, or life
16 agent who has a service contract with a corporation licensed under
17 this code or who is a stockholder or member of any incorporated
18 association or corporation organized under the Corporations Code
19 for the purpose of providing services to property broker-agents,
20 casualty broker-agents, or life agents may use the name of ~~such a~~
21 *that* corporation or association on any stationery or advertisements
22 and other written or printed matter used to identify the business
23 of the property broker-agent, casualty broker-agent, or life agent
24 provided that the name of the property broker-agent, casualty
25 broker-agent, or life agent is clearly identified as bearing only that
26 relationship to the corporation or association in one of the following
27 ways:

28 “Representing ____;”

29 “A stockholder of ____;”

30 “Placing business through ____;”

31 “Using services of ____.”

32 The use of the corporation or association name in the manner
33 provided in this section shall not constitute such use as would
34 mislead the public within the meaning of Section 1724.5.

35 ~~SEC. 33.~~

36 *SEC. 31.* Section 1730.5 of the Insurance Code is amended to
37 read:

38 1730.5. A life agent, a property broker-agent, and a casualty
39 broker-agent shall provide to all insureds or applicants at the time
40 of application or receipt of premium moneys the effective date of

1 coverage, if known, or the circumstances under which coverage
2 will be effective if there exists conditions precedent to coverage.
3 This section shall apply only to coverage for personal lines of
4 insurance, such as private passenger automobile, homeowner and
5 renter insurance, personal liability, and individual disability and
6 health insurance.

7 ~~SEC. 34.~~

8 *SEC. 32.* Section 1730.6 of the Insurance Code is amended to
9 read:

10 1730.6. (a) Every property broker-agent and every casualty
11 broker-agent shall, prior to arranging premium financing or
12 transacting any agreement for the periodic payment of premium
13 for any new or renewal policy of insurance specified in Section
14 660, disclose to any applicant or prospective insured any options
15 for premium financing or the periodic payment of premium from
16 the insurer or, if applicable, the California Automobile Assigned
17 Risk Plan, that are available for the insurance being purchased.
18 This disclosure may be in the form of a written document. In the
19 event the applicant or prospective insured elects to enter into an
20 agreement for premium financing, the property broker-agent and
21 casualty broker-agent shall comply with the requirements of
22 Section 778.4.

23 (b) For purposes of this section and Section 778.4:

24 (1) "Periodic payment of premium" means the payment plan
25 provided by the California Automobile Assigned Risk Plan, or a
26 payment plan provided by the insurer that allows the total premium
27 to be paid in more than one installment.

28 (2) "Arrange premium financing" means assisting an applicant
29 or prospective insured to arrange for payment of the premium
30 through a premium finance agreement as defined in Section 778.1.

31 ~~SEC. 35.~~

32 *SEC. 33.* Section 1735 of the Insurance Code is amended to
33 read:

34 1735. (a) As used in this section, a managing general agent is
35 a licensed property broker-agent, casualty broker-agent, or a life
36 agent to whom all of the following apply:

37 (1) Has a written management contract and an appointment on
38 file with the commissioner in accordance with Section 1704, which
39 appointment is then in force, with one or more admitted insurers

1 covering business transacted by the insurer in a substantial portion
2 of the State of California.

3 (2) Under the contract specified in paragraph (1), manages the
4 transaction of either all or one or more of the classes of insurance
5 written by those insurers in that territory or the transactions therein
6 by those insurers under a specified fictitious underwriter's name.

7 (3) Has the power to appoint, supervise, and terminate the
8 appointment of local agents in that territory.

9 (4) Has the power to accept or decline risks.

10 (5) Collects premium moneys from producing broker-agents
11 and remits those moneys to those insurers pursuant to the account
12 current system.

13 (b) The managing general agent shall, with respect to any
14 principals for whom fiduciary funds are held, comply with Section
15 1734.

16 ~~SEC. 36.~~

17 *SEC. 34.* Section 1735.5 of the Insurance Code is amended to
18 read:

19 1735.5. A property broker-agent, casualty broker-agent, or
20 surplus line broker may offset funds due an insured for return
21 premiums on any policy against amounts due him or her from the
22 same insured for unpaid premiums on the same or any other policy.
23 Any insurer may pay return premiums to any property broker-agent
24 or any casualty broker-agent for that purpose. This section shall
25 not invalidate an assignment of return premium made concurrently
26 with policy issuance as security for financing that premium, nor
27 the right of the assignee, or his or her assign, to enforce the
28 assignment as a prior claim.

29 ~~SEC. 37.~~

30 *SEC. 35.* Section 1747 of the Insurance Code is amended to
31 read:

32 1747. Whenever the commissioner may determine or have
33 good cause to believe that any property broker-agent or casualty
34 broker-agent has failed to keep or maintain the records required
35 by Section 1727, in connection with or in lieu of any other
36 disciplinary action against the license of the licensee, the
37 commissioner may issue his or her order requiring the licensee to
38 establish and currently complete those records within 60 days from
39 the date of the order. When the order is given in lieu of other
40 disciplinary action, notice of the order may be given by certified

1 mail addressed to the office of the licensee. Failure of the licensee
2 to comply with the order within the time specified therein shall be
3 grounds for the suspension or revocation of the license or licenses
4 of the licensee, and the proceeding shall be conducted in
5 accordance with Chapter 5 (commencing with Section 11500) of
6 Part 1 of Division 3 of Title 2 of the Government Code.

7 ~~SEC. 38.~~

8 *SEC. 36.* Section 1749 of the Insurance Code is amended to
9 read:

10 1749. The department shall require all new applicants for
11 license as a property broker-agent, casualty broker-agent, limited
12 lines automobile insurance agent, personal lines broker-agent,
13 life-only agent, or accident and health agent to meet prelicensing
14 education standards as follows:

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

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

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

37 (d) Require a minimum of 20 hours of prelicensing study as a
38 prerequisite for qualification for a life-only agent license. The
39 curriculum for satisfying this requirement shall be approved by
40 the curriculum board and submitted to the commissioner for final

1 approval. Any additions to the minimum requirements provided
2 by this section shall be approved by the curriculum board pursuant
3 to Section 1749.1 and certified by the department.

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

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

21 (g) In addition to the 20 hours of prelicensing education required
22 to qualify for a license as a property broker-agent, casualty
23 broker-agent, personal lines broker-agent, a life-only agent, or an
24 accident and health agent, or the 20 hours of prelicensing education
25 required to qualify for a license as a limited lines automobile
26 insurance agent, the department shall require 12 hours of study on
27 ethics and this code. Where an applicant seeks a license for more
28 than one of the following license types: a property broker-agent,
29 a casualty broker-agent license, a personal lines broker-agent
30 license, a life-only license, or an accident and health license, the
31 applicant shall only be required to complete one 12-hour course
32 on ethics and this code. The curriculum for satisfying this
33 requirement shall be approved by the curriculum board and
34 submitted to the commissioner for final approval.

35 (h) An applicant for a life-only agent license, an accident and
36 health license, a personal lines broker-agent license, or a limited
37 lines automobile insurance agent license, who is currently licensed
38 as a nonresident in this state shall be required to complete only the
39 course of study on ethics and this code, as required by this section.
40 Additionally, any applicant for that license holding one or more

1 of the designations specified in subdivisions (a) to (p), inclusive,
2 of Section 1749.4 shall be exempted from any requirement for
3 courses in general insurance that would otherwise be a condition
4 of issuance of the license.

5 (i) An applicant for a property broker-agent or casualty
6 broker-agent license who is currently licensed as a nonresident in
7 this state shall be required to complete only the course of study on
8 ethics and this code, as required by subdivision (g). Additionally,
9 any applicant for a license holding one or more of the designations
10 specified in subdivisions (a) to (p), inclusive, of Section 1749.4,
11 shall be exempted from any requirement for courses in general
12 insurance that would otherwise be a condition of issuance of a
13 license.

14 (j) An applicant for a property broker-agent or casualty
15 broker-agent license or both who is licensed as a personal lines
16 agent shall complete a minimum of 20 hours of prelicensing study
17 as a prerequisite for each of these licenses. The curriculum for
18 satisfying this requirement shall be approved by the curriculum
19 board and submitted to the commissioner for final approval. The
20 applicant shall not be required to repeat any prelicensing
21 requirements completed as a prerequisite to being licensed as a
22 personal lines agent.

23 (k) Review and approval of prelicensing courses not conducted
24 in a classroom, as referenced in subdivisions (a) to (j), inclusive,
25 shall include an evaluation of the safeguards in place to ensure
26 that the student completing the course is the person enrolled in the
27 course, methods used to monitor the student's attendance are
28 adequate, methods for the student to interact with the entity
29 providing the training exist, and methods used to record the times
30 spent completing the course are adequate.

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

34 ~~SEC. 39.~~

35 *SEC. 37.* Section 1749.2 of the Insurance Code is amended to
36 read:

37 1749.2. The purpose of Sections 1749.3 to 1749.6, inclusive,
38 is to establish requirements and standards for continuing education
39 programs for persons licensed as property broker-agents, casualty
40 broker-agents, and life agents.

1 Sections 1749.3 to 1749.6, inclusive, shall not apply to either
2 (a) those persons holding resident licenses for any kind or kinds
3 of insurance for which an examination is not required by the law
4 of this state, nor shall it apply to any such limited or restricted
5 license as the commissioner may exempt or (b) licensed
6 nonresident agents or brokers who comply with the continuing
7 education requirements of their state of residence.

8 ~~SEC. 40.~~

9 *SEC. 38.* Section 1749.33 of the Insurance Code is amended
10 to read:

11 1749.33. (a) A life-only agent licensee shall satisfactorily
12 complete 24 hours of instruction prior to renewal of the license.
13 These hours of instruction may be completed at any time prior to
14 renewal of the license.

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

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

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

1 the obligations set forth in this section by other than a proctored
2 examination administered or approved by the department.

3 ~~SEC. 41.~~

4 *SEC. 39.* Section 1749.4 of the Insurance Code is amended to
5 read:

6 1749.4. The courses or programs of instruction successfully
7 completed that shall be deemed to meet the standards for continuing
8 educational requirements, and the number of classroom hours for
9 which they are equivalent, are as follows:

10 (a) Any part of the Life Underwriter Training Council Fellow
11 (LUTCF) program totaling 30 hours for the life-only license and
12 the accident and health license.

13 (b) Any part of the Chartered Life Underwriter (CLU)
14 curriculum totaling 30 hours for the life-only license and the
15 accident and health license.

16 (c) Any part of the Accredited Advisor in Insurance (AAI)
17 program totaling 25 hours for the property broker-agent license or
18 the casualty broker-agent license.

19 (d) Any part of the Chartered Property Casualty Underwriter
20 (CPCU) program totaling 30 hours for the property broker-agent
21 license or the casualty broker-agent license.

22 (e) Any part of the Certified Insurance Counselor (CIC) program
23 totaling 25 hours for the life-only or accident health agent license
24 and the property broker-agent license or the casualty broker-agent
25 license.

26 (f) Any part of the Certified Employee Benefit Specialists
27 (CEBS) program totaling 25 hours for the life-only license and the
28 accident and health license.

29 (g) Any part of the Chartered Financial Consultant (ChFC)
30 program totaling 30 hours for the life-only license.

31 (h) Any part of the Certified Financial Planner (CFP) program
32 totaling 30 hours for the life-only license.

33 (i) Any part of the Fellow, Life Management Institute (FLMI)
34 program totaling 30 hours for the life-only license and the accident
35 and health license.

36 (j) Any part of the Health Insurance Associate (HIA) program
37 totaling 25 hours for the accident and health license.

38 (k) Any part of the Registered Employee Benefits Consultant
39 (REBC) program totaling 30 hours for the accident and health
40 license.

1 (l) Any part of the Registered Health Underwriter (RHU)
2 program totaling 30 hours for the accident and health license.

3 (m) Any part of the Associate in Risk Management (ARM)
4 program totaling 30 hours for the property broker-agent license or
5 the casualty broker-agent license.

6 (n) Any insurance-related course approved by the curriculum
7 board and the commissioner taught by an accredited college or
8 university per credit hour granted totaling 15 hours.

9 (o) Any course or program of instruction or seminar developed
10 or sponsored by an authorized insurer, recognized agents'
11 association, or insurance trade association, or any independent
12 program of instruction shall, if approved by the curriculum board
13 and the commissioner, qualify for the equivalency of the number
14 of classroom hours assigned thereto by the curriculum board and
15 the commissioner.

16 (p) Any correspondence course approved by the curriculum
17 board and the commissioner shall qualify for the equivalency of
18 the number of classroom hours assigned thereto by the
19 commissioner.

20 ~~SEC. 42.~~

21 *SEC. 40.* Section 1749.8 of the Insurance Code is amended to
22 read:

23 1749.8. (a) Every life agent who sells annuities shall
24 satisfactorily complete eight hours of training prior to soliciting
25 individual consumers in order to sell annuities.

26 (b) Every life agent who sells annuities shall satisfactorily
27 complete four hours of training prior to each license renewal. For
28 resident licensees, this requirement shall count toward the
29 licensee's continuing education requirement, but may still result
30 in completing more than the minimum number of continuing
31 education hours set forth in this section.

32 (c) The training required by this section shall be approved by
33 the commissioner and shall consist of topics related to annuities,
34 and California law, regulations, and requirements related to
35 annuities, prohibited sales practices, the recognition of indicators
36 that a prospective insured may lack the short-term memory or
37 judgment to knowingly purchase an insurance product, and
38 fraudulent and unfair trade practices. Subject matter determined
39 by the commissioner to be primarily intended to promote the sale
40 or marketing of annuities shall not qualify for credit towards the

1 training requirement. Any course or seminar that is disapproved
 2 under the provisions of this section shall be presumed invalid for
 3 credit towards the training requirement of this section unless it is
 4 approved in writing by the commissioner.

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

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

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

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

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

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

19 ~~SEC. 43.~~

20 *SEC. 41.* Section 1749.85 of the Insurance Code is amended
 21 to read:

22 1749.85. (a) The curriculum committee shall, in 2006, make
 23 recommendations to the commissioner to instruct property
 24 broker-agents, casualty broker-agents, and personal lines
 25 broker-agents and applicants for property broker-agent, casualty
 26 broker-agent, and personal lines broker-agent licenses in proper
 27 methods of estimating the replacement value of structures, and of
 28 explaining various levels of coverage under a homeowners’
 29 insurance policy. Each provider of courses based upon this
 30 curriculum shall submit its course content to the commissioner for
 31 approval.

32 (b) A person who is not an insurer underwriter or actuary or
 33 other person identified by the insurer, or a licensed property
 34 broker-agent, casualty broker-agent, personal lines broker-agent,
 35 contractor, or architect shall not estimate the replacement value
 36 of a structure, or explain various levels of coverage under a
 37 homeowners’ insurance policy.

38 (c) This section shall not be construed to preclude licensed
 39 appraisers, contractors, and architects from estimating replacement
 40 value of a structure.

1 (d) However, if the Department of Insurance, by adopting a
2 regulation, establishes standards for the calculation of estimates
3 of replacement value of a structure by appraisers, then on and after
4 the effective date of the regulation a real estate appraiser's estimate
5 of replacement value shall be calculated in accordance with the
6 regulation.

7 ~~SEC. 44.~~

8 *SEC. 42.* Section 1750 of the Insurance Code is amended to
9 read:

10 1750. The commissioner shall require in advance as a fee for
11 filing application for the hereinafter designated licenses, renewals
12 thereof, or changes in outstanding licenses, an amount calculated
13 as set forth herein. The fee is determined by multiplying the number
14 of license years in the period of the license applied for or the
15 remaining period of an existing license counting any initial
16 fractional license year of that period as one year for that purpose,
17 as follows:

- 18 (a) Casualty broker-agent, fifty-six dollars (\$56).
- 19 (b) Property broker-agent, fifty-six dollars (\$56).
- 20 (c) Personal lines broker-agent, resident, fifty-six dollars (\$56).
- 21 (d) Life agent, resident, fifty-six dollars (\$56).
- 22 (e) Life agent, nonresident, fifty-six dollars (\$56).
- 23 (f) Surplus line broker who is an individual transacting only on
24 behalf of a surplus line broker organization, two hundred fifty
25 dollars (\$250).
- 26 (g) Surplus line broker not described in subdivision (e), five
27 hundred dollars (\$500).

28 ~~SEC. 45.~~

29 *SEC. 43.* Section 1750.5 of the Insurance Code is amended to
30 read:

31 1750.5. (a) The fee for filing an application for a nonresident
32 license described in Section 1639, and renewal thereof or changes
33 in outstanding licenses, shall be the same amount that is established
34 in this code for a resident license of the same type. If the applicant's
35 state, territory of the United States, commonwealth, or Canadian
36 province of residence has fees for any nonresident insurance license
37 greater than for a like resident license, the commissioner may
38 charge a fee equal to the amount a California resident would be
39 required to pay to obtain a like license for a like term in the

1 applicant’s state, territory of the United States, commonwealth, or
 2 Canadian province of residence.

3 (b) The fee for filing an application for a nonresident limited
 4 lines license described in Section 1639, and renewal thereof or
 5 changes in outstanding licenses, shall be the same amount that is
 6 established in this code for a resident property broker-agent license
 7 or a resident casualty broker-agent license. This section shall not
 8 be construed to require a countersignature on a policy or contract,
 9 or the payment of a countersignature fee.

10 ~~SEC. 46.~~

11 *SEC. 44.* Section 1751 of the Insurance Code is amended to
 12 read:

13 1751. The commissioner shall require, in advance, a fee for
 14 filing the following documents:

15 (a) Application for registration of change in membership of a
 16 copartnership licensed as any of the following:

- 17 (1) Casualty broker-agent, fifty-six dollars (\$56).
- 18 (2) Property broker-agent, fifty-six dollars (\$56).
- 19 (3) Life agent, resident, forty-eight dollars (\$48).
- 20 (4) Life agent, nonresident, fifty-three dollars (\$53).
- 21 (5) Personal lines broker-agent, fifty-six dollars (\$56).

22 (b) Notice for adding or removing from any life agent’s, property
 23 broker-agent’s, casualty broker-agent’s, or personal lines
 24 broker-agent’s license issued to an organization the name of any
 25 natural person named thereon, sixteen dollars (\$16).

26 (c) First amendment to an application, eight dollars (\$8); a
 27 second and each subsequent amendment to an application, sixteen
 28 dollars (\$16).

29 (d) Original application to be given the qualifying examination
 30 for a license of a property, casualty, or personal lines licensee,
 31 twenty-seven dollars (\$27) for each person to be examined.

32 (e) Original application to be given the qualifying examination
 33 for a license of a life licensee, twenty-seven dollars (\$27) for each
 34 person to be examined.

35 (f) Application for reexamination for any of the licenses
 36 mentioned in this section, twenty-seven dollars (\$27) for each
 37 person to be reexamined.

38 (g) Application which includes a request for a certificate of
 39 convenience pursuant to Article 8 (commencing with Section

1 1685), twenty dollars (\$20) in addition to, and not in lieu of, fees
2 otherwise required.

3 (h) Application or request for approval of a true or fictitious
4 name pursuant to Section 1724.5, thirty dollars (\$30), except that
5 there shall be no fee when the name is contained in an original
6 application.

7 (i) “A ratification of appointments of agents” whereby the
8 surviving insurer in a merger or consolidation assumes
9 responsibility for all agents then lawfully appointed for one of the
10 constituent insurers and makes each its agent, one hundred three
11 dollars (\$103).

12 (j) An application or request for approval of:

13 (1) A training course pursuant to Section 1691, except when
14 filed by a degree-conferring college or university, a public
15 educational institution, or by a private nonprofit educational
16 institution, one hundred three dollars (\$103).

17 (2) An arrangement whereby an insurer may qualify certificate
18 of convenience holders pursuant to Section 1691 by means of an
19 approved course given on the insurer’s behalf by a school or
20 organization other than itself, fifty-five dollars (\$55).

21 (k) A bond, pursuant to Article 5 (commencing with Section
22 1662) or Section 1760.5 or 1765, except when the bond constitutes
23 part of an original application filing, sixteen dollars (\$16).

24 (l) An application or request for clearance and cancellation
25 notice of a current licensee of record, sixteen dollars (\$16).

26 (m) An amended action notice pursuant to subdivision (e) of
27 Section 1704, five dollars (\$5).

28 ~~SEC. 47.~~

29 *SEC. 45.* Section 1751.3 of the Insurance Code is amended to
30 read:

31 1751.3. The commissioner shall require sixteen dollars (\$16)
32 in advance as a fee for filing each notice of appointment or each
33 notice of termination pursuant to Section 1707 of any of the
34 following:

35 (a) A casualty broker-agent to act as an insurance agent.

36 (b) A property broker-agent to act as an insurance agent.

37 (c) A life agent.

38 (d) A travel insurance agent.

39 (e) A casualty broker-agent to act as an insurance solicitor.

40 (f) A property broker-agent to act as an insurance solicitor.

1 ~~SEC. 48.~~

2 *SEC. 46.* Section 1755 of the Insurance Code is amended to
3 read:

4 1755. That license shall be applied for and renewed in the same
5 manner as is provided in this chapter for a licensee to act as a
6 property broker-agent or a casualty broker-agent, except that an
7 applicant for a limited license as a travel insurance agent need not
8 pass a qualifying examination, and that the fee for filing an
9 application shall be sixteen dollars (\$16) for each year or fraction
10 thereof in the term of the license applied for.

11 ~~SEC. 49.~~

12 *SEC. 47.* Section 1757.2 of the Insurance Code is amended to
13 read:

14 1757.2. A limited license shall be applied for and renewed in
15 the same manner as is provided in this chapter for a licensee to act
16 as a property broker-agent or a casualty broker-agent, except that
17 an applicant for a limited license as a cargo shipper’s agent need
18 not pass a qualifying examination and is exempt from the
19 prelicensing and continuing education requirements. The fee for
20 filing an application shall be nineteen dollars (\$19) for each year
21 or fraction thereof of the term of the license applied for.

22 ~~SEC. 50.~~

23 *SEC. 48.* Section 1758.2 of the Insurance Code is amended to
24 read:

25 1758.2. Any authority granted pursuant to the provisions of
26 this article shall be effective only while a permanent underlying
27 life agent’s license and registration in accordance with the rules
28 of the United States Securities and Exchange Commission or the
29 Financial Industry Regulatory Authority remains in full force and
30 effect. The provisions of subdivision (b) of Section 1704 relating
31 to the inactivation and reactivation of the underlying life agent’s
32 license, and the renewal thereof, shall apply to any authority issued
33 pursuant to this article, except that references to agency
34 appointments and terminations shall relate only to the underlying
35 life agent’s license. ~~Such~~ *The* authority may be revoked, suspended,
36 or otherwise affected for the same reasons and by the same
37 procedures as a life agent’s license.

38 ~~SEC. 51.~~

39 *SEC. 49.* Section 1758.3 of the Insurance Code is amended to
40 read:

1 1758.3. The commissioner shall not grant authority to transact
2 variable contracts unless the life agent or applicant furnishes proof
3 that he or she is registered to sell securities in accordance with the
4 rules of the United States Securities and Exchange Commission
5 or the Financial Industry Regulatory Authority. Any authority
6 granted to a life agent to transact variable contracts shall
7 immediately terminate upon the life agent no longer being
8 registered to sell securities in accordance with the rules of the
9 United States Securities and Exchange Commission or the Financial
10 Industry Regulatory Authority.

11 ~~SEC. 52.~~

12 *SEC. 50.* Section 1758.87 of the Insurance Code is amended
13 to read:

14 1758.87. A rental car agent shall not do any of the following:

15 (a) Offer to sell insurance except in conjunction with, and
16 incidental to, authorized rental agreements.

17 (b) Advertise, represent, or otherwise portray itself or its
18 employees or endorsees as licensed insurers, life agents, property
19 broker-agents, or casualty broker-agents.

20 (c) Pay an endorsee any compensation, fee, or commission
21 dependent on the placement of insurance under the agent's license.
22 Nothing in this code shall prohibit the payment of a
23 "performance-related incentive." For the purposes of this
24 subdivision, a "performance-related incentive" is not a commission
25 as otherwise defined. A "performance-related incentive" is money
26 or other tangible or intangible items of value paid or given to any
27 endorsee of the licensee which is not based solely on the offering
28 or selling of the insurance products listed in Section 1758.85.

29 ~~SEC. 53.~~

30 *SEC. 51.* Section 1758.98 of the Insurance Code is amended
31 to read:

32 1758.98. Under the authority of the credit insurance agent
33 license, a credit insurance agent shall not do any of the following:

34 (a) Offer to sell insurance except in conjunction with, and
35 incidental to, a loan or extension of credit.

36 (b) Advertise, represent, or otherwise portray itself or its
37 employees, agents, or endorsees as licensed insurers, life agents,
38 property ~~broker-agent~~ *broker-agents*, or casualty broker-agents.

39 (c) Pay any unlicensed person any compensation, fee, or
40 commission dependent on the placement of insurance under the

1 agent’s license. Nothing in this subdivision shall prohibit
2 production payments or incentive payments to an endorsee.

3 ~~SEC. 54.~~

4 *SEC. 52.* Section 1765.3 of the Insurance Code is amended to
5 read:

6 1765.3. Any natural person applying for a license to act as a
7 surplus line broker shall prove his or her competency by showing
8 he or she holds an existing license to act as a property broker-agent
9 or casualty broker-agent, which requires passing the qualifying
10 examination for ~~such an~~ *that* insurance broker’s license.

11 ~~SEC. 55.~~

12 *SEC. 53.* Section 10236.1 of the Insurance Code is amended
13 to read:

14 10236.1. (a) Benefits under individual long-term care insurance
15 policies issued before new premium rate schedules are approved
16 under Section 10236.11 shall be deemed reasonable in relation to
17 premiums if the expected loss ratio is at least 60 percent, calculated
18 in a manner that provides for adequate reserving of the long-term
19 care insurance risk.

20 (b) For individual long-term care insurance policies issued
21 before new premium rate schedules are approved under Section
22 10236.11, and for which rate revisions are filed on or after January
23 1, 2010, benefits shall be deemed reasonable in relation to the
24 premium if the premium rate schedules have a lifetime expected
25 loss ratio of at least 60 percent of the premium scale in effect on
26 December 31, 2009, plus 70 percent of premium increases filed
27 on or after January 1, 2010, calculated in a manner that provides
28 for adequate reserving of the long-term care insurance risk.

29 (c) In evaluating the expected loss ratio, due consideration shall
30 be given to all relevant factors, including the following:

- 31 (1) Statistical credibility of incurred claims experience and
32 earned premiums.
- 33 (2) The period for which rates are computed to provide coverage.
- 34 (3) Experienced and projected trends.
- 35 (4) Concentration of experience within early policy duration.
- 36 (5) Expected claim fluctuation.
- 37 (6) Experience refunds, adjustments, or dividends.
- 38 (7) Renewability features.
- 39 (8) All appropriate expense factors.
- 40 (9) Interest.

1 (10) Experimental nature of the coverage.

2 (11) Policy reserves.

3 (12) Mix of business by risk classification.

4 (13) Product features, such as long elimination periods, high
5 deductibles, and high maximum limits.

6 (d) Notwithstanding any other provision of this section, for rate
7 revisions filed on or after January 1, 2010, the commissioner may
8 approve an application for a rate revision based on less than a 70
9 percent loss ratio, but not less than a 60 percent loss ratio, for the
10 portion attributable to the rate increase if an insurer can
11 demonstrate that the rates are necessary to protect the financial
12 condition of the insurer, including avoidance of further reductions
13 in capital and surplus.

14 ~~SEC. 56.~~

15 *SEC. 54.* Section 10785 of the Insurance Code is amended to
16 read:

17 10785. (a) A disability insurer that covers hospital, medical,
18 or surgical expenses under an individual health benefit plan as
19 defined in subdivision (a) of Section 10198.6 may not, with respect
20 to a federally eligible defined individual desiring to enroll in
21 individual health insurance coverage, decline to offer coverage to,
22 or deny enrollment of, the individual or impose any preexisting
23 condition exclusion with respect to the coverage.

24 (b) For purposes of this section, “federally eligible defined
25 individual” means an individual who, as of the date on which the
26 individual seeks coverage under this section, meets all of the
27 following conditions:

28 (1) Has had 18 or more months of creditable coverage, and
29 whose most recent prior creditable coverage was under a group
30 health plan, a federal governmental plan maintained for federal
31 employees, or a governmental plan or church plan as defined in
32 the federal Employee Retirement Income Security Act of 1974
33 (29 U.S.C. Sec. 1002).

34 (2) Is not eligible for coverage under a group health plan,
35 Medicare, or Medi-Cal, and does not have other health insurance
36 coverage.

37 (3) Was not terminated from his or her most recent creditable
38 coverage due to nonpayment of premiums or fraud.

39 (4) If offered continuation coverage under COBRA or
40 Cal-COBRA, has elected and exhausted that coverage.

1 (c) Every disability insurer that covers hospital, medical, or
2 surgical expenses shall comply with applicable federal statutes
3 and regulations regarding the provision of coverage to federally
4 eligible defined individuals, including any relevant application
5 periods.

6 (d) A disability insurer shall offer the following health benefit
7 plans under this section that are designed for, made generally
8 available to, are actively marketed to, and enroll, individuals:
9 (1) either the two most popular products as defined in Section
10 300gg-41(c)(2) of Title 42 of the United States Code and Section
11 148.120(c)(2) of Title 45 of the Code of Federal Regulations or
12 (2) the two most representative products as defined in Section
13 300gg-41(c)(3) of the United States Code and Section
14 148.120(c)(3) of Title 45 of the Code of Federal Regulations, as
15 determined by the insurer in compliance with federal law. An
16 insurer that offers only one health benefit plan to individuals,
17 excluding health benefit plans offered to Medi-Cal or Medicare
18 beneficiaries, shall be deemed to be in compliance with this chapter
19 if it offers that health benefit plan contract to federally eligible
20 defined individuals in a manner consistent with this chapter.

21 (e) (1) In the case of a disability insurer that offers health benefit
22 plans in the individual market through a network plan, the insurer
23 may do both of the following:

24 (A) Limit the individuals who may be enrolled under that
25 coverage to those who live, reside, or work within the service area
26 for the network plan.

27 (B) Within the service area covered by the health benefit plan,
28 deny coverage to individuals if the insurer has demonstrated to the
29 commissioner that the insured will not have the capacity to deliver
30 services adequately to additional individual insureds because of
31 its obligations to existing group policyholders, group
32 contractholders and insureds, and individual insureds, and that the
33 insurer is applying this paragraph uniformly to individuals without
34 regard to any health status-related factor of the individuals and
35 without regard to whether the individuals are federally eligible
36 defined individuals.

37 (2) A disability insurer, upon denying health insurance coverage
38 in any service area in accordance with subparagraph (B) of
39 paragraph (1), may not offer health benefit plans through a network

1 in the individual market within that service area for a period of
2 180 days after the coverage is denied.

3 (f) (1) A disability insurer may deny health insurance coverage
4 in the individual market to a federally eligible defined individual
5 if the insurer has demonstrated to the commissioner both of the
6 following:

7 (A) The insurer does not have the financial reserves necessary
8 to underwrite additional coverage.

9 (B) The insurer is applying this subdivision uniformly to all
10 individuals in the individual market and without regard to any
11 health status-related factor of the individuals and without regard
12 to whether the individuals are federally eligible defined individuals.

13 (2) A disability insurer, upon denying individual health
14 insurance coverage in any service area in accordance with
15 paragraph (1), may not offer that coverage in the individual market
16 within that service area for a period of 180 days after the date the
17 coverage is denied or until the insurer has demonstrated to the
18 commissioner that the insurer has sufficient financial reserves to
19 underwrite additional coverage, whichever is later.

20 (g) The requirement pursuant to federal law to furnish a
21 certificate of creditable coverage shall apply to health benefits
22 plans offered by a disability insurer in the individual market in the
23 same manner as it applies to an insurer in connection with a group
24 health benefit plan policy or group health benefit plan contract.

25 (h) A disability insurer shall compensate a life agent, property
26 broker-agent, or casualty broker-agent whose activities result in
27 the enrollment of federally eligible defined individuals in the same
28 manner and consistent with the renewal commission amounts as
29 the insurer compensates life agents, property broker-agents, or
30 casualty broker-agents for other enrollees who are not federally
31 eligible defined individuals and who are purchasing the same
32 individual health benefit plan.

33 (i) Every disability insurer shall disclose as part of its COBRA
34 or Cal-COBRA disclosure and enrollment documents, an
35 explanation of the availability of guaranteed access to coverage
36 under the Health Insurance Portability and Accountability Act of
37 1996, including the necessity to enroll in and exhaust COBRA or
38 Cal-COBRA benefits in order to become a federally eligible
39 defined individual.

1 (j) No disability insurer may request documentation as to
2 whether or not a person is a federally eligible defined individual
3 other than is permitted under applicable federal law or regulations.

4 (k) This section shall not apply to coverage defined as excepted
5 benefits pursuant to Section 300gg(c) of Title 42 of the United
6 States Code.

7 (l) This section shall apply to policies or contracts offered,
8 delivered, amended, or renewed on or after January 1, 2001.

9 *SEC. 55. Section 11623 of the Insurance Code is amended to*
10 *read:*

11 11623. (a) (1) To assist the commissioner in carrying out the
12 purposes of this article, an advisory committee composed of 15
13 members is created. The commissioner shall administer and operate
14 the plan as authorized by law. The commissioner shall consult
15 with the advisory committee on a regular basis on policy matters
16 affecting the operation of the plan.

17 **Eight**

18 (2) *Eight* members representing subscribing insurers shall be
19 elected annually by subscribing insurers. The commissioner shall
20 appoint the noninsurer members. Four members shall represent
21 the public. Two members shall represent producers. The remaining
22 member is the commissioner or his or her designee.

23 ~~All insurer representatives shall be salaried employees.~~

24 (3) *Each insurer representative serving shall be either (A) a*
25 *salaried employee or officer of the named insurer or (B) a salaried*
26 *employee or officer of another insurer from a group of insurance*
27 *companies under the same management as the named insurer. A*
28 *salaried employee or officer of the holding company of the named*
29 *insurer may also be designated as the representative. At least two*
30 *insurer representatives shall be employed by insurers having their*
31 *principal headquarters located in California. At least two insurer*
32 *representatives shall represent companies who have average annual*
33 *automobile liability premiums in California below one hundred*
34 *million dollars (\$100,000,000) in the prior three years. At least*
35 *one insurer representative shall represent an insurer with average*
36 *annual automobile liability premiums in California exceeding one*
37 *hundred million dollars (\$100,000,000) in the prior three years.*
38 *At least one insurer representative shall represent an insurer with*
39 *average annual automobile liability premiums in California*

1 exceeding seven hundred million dollars (\$700,000,000) in the
2 prior three years.

3 ~~Public~~

4 (4) *Public* members shall be paid two hundred fifty dollars
5 (\$250) per meeting and shall be reimbursed all reasonable expenses
6 incurred.

7 ~~The~~

8 (5) *The* commissioner shall remove members for nonattendance.
9 Unless satisfactory excuse is made in writing to the commissioner
10 in a timely manner, nonattendance shall mean the failure to appear
11 at more than two regularly scheduled meetings in a 12-month
12 period. Should the member who is removed represent a company
13 or agency, another representative from the company or agency
14 may not be appointed for a period of not less than two years.

15 ~~The~~

16 (6) *The* advisory committee with the approval of the
17 commissioner shall appoint a manager to carry out the purposes
18 of this article, employ sufficient personnel to provide services
19 necessary to the operation of the plan, and contract for the provision
20 of statistical and actuarial services.

21 ~~The~~

22 (7) *The* cost of the plan, including any personnel and contracting
23 costs, shall be fairly apportioned among the subscribing insurers
24 to whom assignments may be made. The costs associated shall be
25 directly attributable to the management of the plan and directly
26 related to its programs. In consultation with the advisory
27 committee, the commissioner shall develop, issue, and adopt
28 regulations to carry out the purposes of this article.

29 (b) Notwithstanding this act, which changes the status of the
30 governing committee to that of an advisory committee, the
31 committee shall have the right to retain counsel of its choice
32 pursuant to a selection process adopted by the committee and the
33 right and necessary standing to bring and defend actions in judicial
34 and administrative proceedings related to the plan in the name of
35 the plan, with all powers attendant thereto including the right to
36 retain consultants, counsel, and expert witnesses of its choice.

37 ~~SEC. 57.~~

38 *SEC. 56.* Section 11691 of the Insurance Code is amended to
39 read:

1 11691. (a) (1) In order to provide protection to the workers
2 of this state in the event that the insurers issuing workers'
3 compensation insurance to employers fail to pay compensable
4 workers' compensation claims when due, except in the case of the
5 State Compensation Insurance Fund, every insurer desiring
6 admission to transact workers' compensation insurance, or workers'
7 compensation reinsurance business, or desiring to reinsure the
8 injury, disablement, or death portions of policies of workers'
9 compensation insurance under the class of disability insurance
10 shall, as a prerequisite to admission, or ability to reinsure the injury,
11 disablement, or death portion of policies of workers' compensation
12 insurance under the class of disability insurance, deposit cash
13 instruments or approved interest-bearing securities or approved
14 stocks readily convertible into cash, investment certificates, or
15 share accounts issued by a savings and loan association doing
16 business in this state and insured by the Federal Deposit Insurance
17 Corporation, certificates of deposit, or savings deposits in a bank
18 licensed to do business in this state, or is either domiciled in and
19 has a principal place of business in this state, or is a national bank
20 association with a trust office located in this state, or approved
21 letters of credit that perform in material respects as any other
22 security allowable as a form of deposit for purposes of a workers'
23 compensation deposit and that meet the standard set forth in Section
24 922.5, or approved securities registered with a qualified depository
25 located in a reciprocal state as defined in Section 1104.9, with that
26 deposit to be in an amount and subject to any exceptions as set
27 forth in this article. The deposit shall be made from time to time
28 as demanded by the commissioner and may be made with the
29 Treasurer, or a bank or savings and loan association authorized to
30 engage in the trust business pursuant to Division 1 (commencing
31 with Section 99) or Division 2 (commencing with Section 5000)
32 of the Financial Code, or a trust company. A deposit of securities
33 registered with a qualified depository located in a reciprocal state
34 as defined in Section 1104.9 may only be made in a bank or savings
35 and loan association authorized to engage in the trust business
36 pursuant to Division 1 (commencing with Section 99) or Division
37 2 (commencing with Section 5000) of the Financial Code, or a
38 trust company, licensed to do business and located in this state
39 that is a qualified custodian as defined in paragraph (1) of
40 subdivision (a) of Section 1104.9 and that maintains deposits of

1 at least seven hundred fifty million dollars (\$750,000,000). The
2 deposit shall be made subject to the approval of the commissioner
3 under those rules and regulations that he or she shall promulgate.
4 The deposit shall be maintained at a deposit value specified by the
5 commissioner, but in any event no less than one hundred thousand
6 dollars (\$100,000), nor less than the reserves required of the insurer
7 to be maintained under any of the provisions of Article 1
8 (commencing with Section 11550) of Chapter 1, relating to loss
9 reserves on workers' compensation business of the insurer in this
10 state, nor less than the sum of the amounts specified in subdivision
11 (a) of Section 11693, whichever is greater. The deposit shall be
12 for the purpose of paying compensable workers' compensation
13 claims under policies issued by the insurer or reinsured by the
14 admitted reinsurer and expenses as provided in Section 11698.02,
15 in the event the insurer or reinsurer fails to pay those claims when
16 they come due. If the insurer providing the deposit is domiciled
17 in a state where a state statute, regulation, or court decision
18 provides that, with respect to covered claims within the deductible
19 amount that are paid by a guarantee association after the entry of
20 an order of liquidation under large deductible workers'
21 compensation policies, any part of the reimbursement proceeds,
22 other than the reasonable expenses of the receiver related to
23 treatment of deductible policy arrangements of insurance
24 companies in liquidation, owed by insureds on those deductible
25 amounts, whether paid directly or through a draw of collateral, are
26 general assets of the estate, then the amount of the insurer's deposit
27 pursuant to this article shall be calculated based on the gross
28 amount of that insurer's liabilities for loss and loss adjustment
29 expenses under those policies without regard to the deductible,
30 and those reserves shall not be reduced by any collateral or
31 reimbursement obligations insureds were required to provide under
32 those policies.

33 (2) Nothing in this section shall require that the deposit be
34 calculated based on gross amounts of liabilities described above
35 if the domiciliary state does not have an existing statute, regulation,
36 or court decision providing that the reimbursement proceeds
37 described above are general assets of the estate.

38 (b) Each insurer or reinsurer desiring to have the ability to
39 reinsure the injury, disablement, or death portions of policies of
40 workers' compensation under the class of disability insurance shall

1 provide prior notice to the commissioner, in the manner and form
2 prescribed by the commissioner of its intent to reinsure that
3 insurance. In the event of late notice, a late filing fee shall be
4 imposed on the reinsurer pursuant to Section 924 for failure to
5 notify the commissioner of its intent to reinsure workers'
6 compensation insurance.

7 (c) If the deposit required by this section is not made with the
8 Treasurer, then the depositor shall execute a trust agreement in a
9 form approved by the commissioner between the insurer, the
10 institution in which the deposit is made or, where applicable, the
11 qualified custodian of the deposit, and the commissioner, that
12 grants to the commissioner the authority to withdraw the deposit
13 as set forth in Sections 11691.2, 11696, 11698, and 11698.3. The
14 insurer shall also execute and deliver in duplicate to the
15 commissioner a power of attorney in favor of the commissioner
16 for the purposes specified herein, supported by a resolution of the
17 depositor's board of directors. The power of attorney and director's
18 resolution shall be on forms approved by the commissioner, shall
19 provide that the power of attorney cannot be revoked or withdrawn
20 without the consent of the commissioner, and shall be
21 acknowledged as required by law.

22 (d) (1) The commissioner shall require payment in advance of
23 fees for the initial filing of a trust agreement with a bank, savings
24 and loan association, or trust company on deposits made pursuant
25 to subdivision (a); for each amendment, supplement, or other
26 change to the deposit agreement; for receiving and processing
27 deposit schedules pursuant to this section; and for each withdrawal,
28 substitution, or any other change in the deposit. The fees shall be
29 set forth in the department's Schedule of Fees and Charges.

30 (2) The commissioner shall require payment in advance of a
31 fee for the initial filing of each letter of credit utilized pursuant to
32 subdivision (a). In addition, the commissioner shall require
33 payment in advance of a fee for each amendment of a letter of
34 credit. The fees shall be set forth in the department's Schedule of
35 Fees and Charges.

36 (e) Any workers' compensation insurer that deposits cash or
37 cash equivalents pursuant to this section shall be entitled to a
38 prompt refund of those deposits in excess of the amount determined
39 by the commissioner pursuant to subdivision (a). The commissioner
40 shall cause to be refunded any deposits determined by the

1 commissioner to be in excess of the amount required by subdivision
2 (a) within 30 days of that determination. In the alternative, an
3 insurer may use any excess deposit funds to offset a demand by
4 the commissioner to increase its deposit due to the failure of a
5 reinsurer to make a deposit pursuant to this section.

6 (f) (1) An admitted insurer reinsuring business covered in this
7 article (hereafter referred to as reinsurer) shall identify to the
8 commissioner, in a form prescribed by the commissioner, amounts
9 deposited for credit in the name of each ceding insurer.

10 (2) All reinsurance agreements covering claims and obligations
11 under business covered by this article, and allowable for purposes
12 of granting a ceding carrier a deposit credit, shall include a
13 provision granting the commissioner, in the event of a delinquency
14 proceeding, receivership, or insolvency of a ceding insurer, any
15 sums from a reinsurer's deposit that are necessary for the
16 commissioner to pay those reinsured claims and obligations, or to
17 ensure their payment by the California Insurance Guarantee
18 Association, deemed by the commissioner due under the
19 reinsurance agreement, upon failure of the reinsurer for any reason
20 to make payments under the policy of reinsurance. The
21 commissioner shall give 30 days' notice prior to drawing upon
22 these funds of an intent to do so. Notwithstanding the
23 commissioner's right to draw on these funds, the reinsurer shall
24 otherwise retain its right to determine the validity of those claims
25 and obligations and to contest their payment under the reinsurance
26 agreement. Prior to a reinsurer's deposit being drawn upon, in
27 whole or in part, by the department, the department shall provide
28 a reinsurer with an explanation of procedures that a reinsurer may
29 use to explain to the department why the use of the reinsurer's
30 deposit may not be appropriate under the reinsurance agreement.

31 (3) No reinsurer entering into a contract identified in paragraph
32 (2), beginning on or after January 1, 2005, may cede claims or
33 obligations assumed from a ceding insurer unless the deposit
34 securing the ceded claims or obligations is governed by paragraph
35 (2) or, upon approval of the commissioner, would secure the ceded
36 claims or obligations in all material respects and in the same
37 manner as a deposit identified in paragraph (2) above.

38 (4) All sums received from the reinsurer by the commissioner
39 for those claims paid by the California Insurance Guarantee
40 Association shall be held separate and apart from and not included

1 in the general assets of the insolvent insurer, and shall be
2 transferred to the California Insurance Guarantee Association upon
3 receipt by the commissioner. In the event of a final judgment or
4 settlement adverse to the drawing of funds by the commissioner
5 pursuant to paragraph (2) or (3), the California Insurance Guarantee
6 Association shall repay funds it obtained to pay covered claims
7 and shall, if necessary, either levy a surcharge as needed or seek
8 legislative approval to levy the surcharge if the California Insurance
9 Guarantee Association is already levying the maximum surcharge
10 permissible under law.

11 (g) If a reinsurer has not maintained deposits as required by
12 subdivision (a) in amounts equal to the amounts of deposit credits
13 claimed by its ceding insurers, the commissioner, after notifying
14 the reinsurer and its ceding insurers of the deposit shortfall and
15 allowing 15 days from the date of the notice for the deposit shortfall
16 to be corrected, may disallow all or a portion of the reserve credits
17 claimed by the ceding insurers. A ceding insurer disallowed a
18 reserve credit pursuant to this provision shall immediately make
19 the deposit required by this section.

20 (h) For interest-bearing securities that are debt securities and
21 include principal payment features prior to maturity that are utilized
22 pursuant to subdivision (a), all principal payments received shall
23 be retained as part of the deposit.

24 (i) Withdrawal of any amount of the deposit required under
25 subdivision (a) that results in a reduction of the required amount
26 of the deposit may only occur with the prior written consent of the
27 commissioner.

28 ~~SEC. 58.~~

29 *SEC. 57.* Section 12815 of the Insurance Code is amended to
30 read:

31 12815. (a) An obligor who is not a seller shall possess a vehicle
32 service contract provider license. A vehicle service contract
33 provider license shall be applied for and maintained, and its holder
34 shall be subject to disciplinary action, as if it were a property
35 broker-agent or casualty broker-agent license, with the following
36 exceptions:

37 (1) An applicant for a vehicle service contract provider license
38 is exempt from having to satisfy prelicensing and continuing
39 education requirements, and from having to pass a qualifying exam.

1 (2) The fee to obtain or renew a vehicle service contract provider
2 license shall be the same as that to obtain or renew a certificate of
3 authority to operate a motor club.

4 (b) A service contract administrator shall be licensed as a
5 property broker-agent or casualty broker-agent.

6 ~~SEC. 59.~~

7 *SEC. 58.* Section 12938 of the Insurance Code is amended to
8 read:

9 12938. Notwithstanding any other provision of law, the
10 department shall make available for public inspection and publish
11 on its Internet Web site all of the information described in
12 subdivisions (a) and (b). This information shall be maintained in
13 a current, up-to-date condition. All identifying and privileged
14 information regarding individual policyholders shall be redacted
15 from documents available for public inspection and on the Internet
16 Web site.

17 (a) All fully executed stipulations, orders, decisions, settlements,
18 or other forms of agreement resolving market conduct
19 examinations, whether the examinations were finalized, terminated,
20 or suspended, that pertain to unfair or deceptive practices in the
21 business of insurance as defined in Section 790.03.

22 (b) (1) Every adopted report of a market conduct examination
23 of unfair or deceptive practices in the business of insurance as
24 defined in Section 790.03 that is adopted as filed, or as modified
25 or corrected, by the commissioner pursuant to Section 734.1.

26 (2) The commissioner upon adopting the report shall transmit
27 a copy of the report, either electronically or by certified United
28 States mail, to a representative that the examined insurer designated
29 by that insurer to receive the report, or in the case of an
30 examination of more than one insurer in an insurer group, to a
31 single representative of the group designated to receive the report
32 on behalf of all examined insurers. Within 20 business days after
33 the transmittal, the examined insurer may submit comments to the
34 commissioner relating to the adopted report. The comments shall
35 be in a form and length as provided by regulation.

36 (3) Twenty business days after the transmittal the commissioner
37 shall publish on the department's Internet Web site the adopted
38 report and any comments submitted by the examined insurer unless
39 a court of competent jurisdiction has stayed the publication of the
40 report.

- 1 (c) This section may not be construed to require the disclosure
- 2 of company workpapers or other company documents discovered
- 3 during the course of an examination or any preliminary report of
- 4 the examination, except as otherwise permitted by law.

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