

AMENDED IN SENATE JULY 12, 2011

AMENDED IN SENATE JUNE 14, 2011

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, 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, *to amend and renumber Sections 1765.3 and 1765.4 of*, and to repeal 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. Existing law requires the bond

of a fire and casualty broker-agent to be in the amount of \$10,000, as specified.

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. The bill would clarify that individuals and organizations licensed for both property and casualty are only required to obtain one \$10,000 bond to act as a broker.

(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.

(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.
- 5 (b) "Property broker-agent" means a person licensed pursuant
- 6 to Section 1625.

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

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

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

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

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

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

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

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

769.55. (a) Notwithstanding any other provision of this code, for the purposes of Chapter 6 (commencing with Section 520) through Chapter 11 (commencing with Section 675), inclusive of Part 1 of Division 1, the obligation of an insurer to furnish any

1 notice to its insured required by law may be carried out by an
2 insurer's general agent, provided, however, that an insurer's
3 delegation of a notice obligation to a general agent shall not limit
4 or negate the insurer's responsibility or liability if the general agent
5 fails to provide the required notice.

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

13 (c) Nothing in this section shall provide an exemption from
14 Article 5.4 (commencing with Section 769.80) to any property
15 broker-agent and casualty broker-agent who is otherwise subject
16 to that article.

17 SEC. 5. Section 769.82 of the Insurance Code is amended to
18 read:

19 769.82. (a) No producer shall act in the capacity of an MGA
20 with respect to risks located in this state for an insurer that holds
21 a certificate of authority unless that producer is licensed as a
22 property broker-agent and casualty broker-agent, or as a life agent
23 in this state.

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

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

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

36 SEC. 6. Section 778.4 of the Insurance Code is amended to
37 read:

38 778.4. (a) Every property broker-agent and every casualty
39 broker-agent shall, prior to arranging premium financing for any

1 new or renewal policy of insurance specified in Section 660, do
2 all of the following:

3 (1) Provide the applicant or prospective insured with any
4 information that is required by the federal Truth in Lending Act
5 (15 U.S.C. Sec. 1601 et seq.).

6 (2) Obtain the signature of the applicant or prospective insured
7 on the following disclosure, which shall be in 10-point boldface
8 type on a separate form or sheet of paper:

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

24 (b) Every property broker-agent and every casualty broker-agent
25 shall comply with the requirements of the Consumer Contract
26 Awareness Act of 1990 (Title 1.86 (commencing with Section
27 1799.200) of Part 4 of Division 3 of the Civil Code) to the extent
28 that its provisions are applicable to any transaction subject to this
29 section.

30 (c) If a transaction subject to subdivision (a) is conducted over
31 the telephone, the ~~property broker-agent~~ *property broker-agent*
32 and the casualty broker-agent shall be deemed to have complied
33 with the requirements of subdivision (a) if, within 72 hours after
34 transacting the contract or agreement, the disclosure form and
35 other information required by subdivision (a) is mailed to the
36 applicant or insured at the address provided by the applicant or
37 insured. Proof of mailing shall be established by the method
38 described in Section 38.

39 SEC. 7. Section 827.8 of the Insurance Code is amended to
40 read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 SEC. 8. Section 1625 of the Insurance Code is amended to
25 read:

26 1625. (a) A property licensee or a casualty licensee is a person
27 authorized to act as an insurance agent, broker, or solicitor, and a
28 property broker-agent license or a casualty broker-agent license
29 is a license so to act.

30 (b) Licenses to act as a property broker-agent under this chapter
31 shall entitle the licensee to transact insurance coverage on the
32 direct or consequential loss or damage to property of every kind.

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

37 SEC. 9. Section 1625.5 of the Insurance Code is amended to
38 read:

39 1625.5. (a) A personal lines licensee is a person authorized to
40 transact automobile insurance, as defined in Section 660, including

1 insurance for recreational vehicles used for noncommercial
2 purposes, personal watercraft insurance, residential property
3 insurance, as defined in Section 10087, including earthquake and
4 flood insurance, inland marine insurance covering personal
5 property, and umbrella or excess liability insurance providing
6 coverage when written over one or more underlying automobile
7 or residential property insurance policies, and a personal lines
8 broker-agent license is a license to so act.

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

15 (c) A person licensed as a personal lines agent who makes an
16 application to the commissioner to become a property broker-agent
17 or a casualty broker-agent pursuant to Section 1625 shall do all of
18 the following:

19 (1) Submit an application on a form provided by the
20 commissioner.

21 (2) Complete prelicensing education as specified in Section
22 1749.

23 (3) Take and pass a qualifying examination pursuant to Section
24 1676.

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

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

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

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

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

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

1 SEC. 10. Section 1625.55 of the Insurance Code is amended
2 to read:

3 1625.55. (a) A limited lines automobile insurance agent is a
4 person authorized to transact automobile insurance, as defined in
5 Section 660. A limited lines automobile insurance agent license
6 is a license to so act.

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

12 (c) The commissioner shall require in advance a fee for filing
13 any applications, renewals thereof, or changes in outstanding
14 licenses, or for the filing of other required documents at an amount
15 designated in this chapter for a personal lines licensee, and for
16 filing any notice of appointment or notice of termination at an
17 amount specified in Section 1751.3.

18 (d) A person licensed as a limited lines automobile insurance
19 agent who makes an application to the commissioner to become
20 a property broker-agent or a casualty broker-agent pursuant to
21 Section 1625 or a personal lines agent pursuant to Section 1625.5
22 shall do all of the following:

23 (1) Submit an application on a form provided by the
24 commissioner.

25 (2) Complete prelicensing education as specified in Section
26 1749.

27 (3) Take and pass a qualifying examination pursuant to Section
28 1676.

29 SEC. 11. Section 1627 of the Insurance Code is amended to
30 read:

31 1627. A license is a permit to act in the capacity specified
32 therein. A person licensed is the holder of the license. In case of
33 a license to act as a life agent, property broker-agent, or casualty
34 broker-agent issued to an organization, the organization is the
35 holder thereof, but the natural person or persons named thereon
36 are thereby permitted to exercise the agency or brokerage powers
37 of the organization in accordance with and subject to the provisions
38 of this chapter and other applicable law. As used in this chapter,
39 the term "license" includes a certificate of convenience and a
40 permanent license, and the term "persons who are licensed"

1 includes the holders of any such certificate or the license, but these
2 definitions and the use of those terms in this chapter shall not
3 confer upon a certificate of convenience or any holder thereof any
4 property right in or to the certificate, the certificate being and
5 remaining only a temporary permit, issued as a matter of
6 convenience, allowing the transaction of insurance without a
7 permanent license, but within the limits, and subject to the
8 conditions of the certificate of convenience issued and the laws
9 applicable thereto.

10 SEC. 12. Section 1635 of the Insurance Code is amended to
11 read:

12 1635. No license is required under the provisions of this chapter
13 for a person to act in the following capacities or to engage in the
14 following activities, providing no commission is paid or allowed,
15 directly or indirectly, by the insurer, creditor, retailer, or other
16 person for acting in those capacities or engaging in those activities:

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

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

22 (c) As a salaried representative of a reciprocal or interinsurance
23 exchange or of its attorney-in-fact.

24 (d) Employment that does not include the solicitation,
25 negotiation, or effecting of contracts of insurance and the signing
26 of policies or other evidences of insurance.

27 (e) As an officer of an insurer or a salaried traveling employee
28 of the type commonly known as a special agent or as an agency
29 supervisor, while performing duties and exercising functions that
30 are commonly performed by a special agent or agency supervisor,
31 if the person engaging in the activity does not do either of the
32 following:

33 (1) Effect insurance.

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

37 (f) As an officer or salaried representative of a life insurer if his
38 or her activities are limited to direct technical advice and assistance
39 to a properly licensed person and his or her activities do not include
40 effecting, soliciting, or negotiating insurance except as a part of

1 and in connection with the business of a property broker-agent,
2 casualty broker-agent, or life agent licensed under this chapter.

3 (g) Employment by an insurer at its home or branch office that
4 does not include the solicitation, negotiation, or effecting of
5 contracts of insurance, and that may as part thereof include the
6 signing of policies or other evidences of insurance.

7 (h) The completion or delivery of a declaration or certificate of
8 coverage under a running inland marine insurance contract
9 evidencing coverage thereunder and including only those
10 negotiations as are necessary to the completion or delivery if the
11 person performing those acts or his or her employer has an
12 insurable interest in the risk covered by the certificate or
13 declaration.

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

17 (1) That of a regularly salaried administrative or clerical
18 employee whose activities do not include the solicitation,
19 negotiation, or effecting of contracts of insurance from the insuring
20 public.

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

26 (j) The solicitation, negotiation, or effectuation of home
27 protection contracts by a person licensed pursuant to Part 1
28 (commencing with Section 10000) of Division 4 of the Business
29 and Professions Code in connection with his or her licensed
30 function authorized by Section 10131 or 10131.6 of the Business
31 and Professions Code. The receipt of a payment permitted by
32 Section 12760 shall not disqualify the recipient from the licensing
33 exemption provided by this chapter.

34 (k) Employees of an insurer whose duties are the inspection,
35 processing, adjusting, investigation, settling of claims, conducting
36 safety inspections, or accepting or rejecting business from licensed
37 insurance agents or brokers.

38 (l) Officers, directors, or employees of an insurer or producer
39 whose executive, administrative, managerial, or clerical activities
40 are only indirectly related to solicitation, negotiation, or effecting

1 the sale of insurance, provided those persons do not have direct
2 contact with consumers in a sales or service capacity except as
3 otherwise provided by this section.

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

8 SEC. 13. Section 1649.5 of the Insurance Code is amended to
9 read:

10 1649.5. Notwithstanding Section 1642, an insurer may own or
11 control, whether directly or indirectly, a separate entity licensed
12 under this chapter as a property broker-agent, casualty
13 broker-agent, or life agent as defined in Section 1621, 1622, or
14 1623, respectively. Insurance transacted by a property broker-agent
15 or a casualty broker-agent with and on behalf of the owning or
16 controlling insurer shall be in its capacity as an insurance agent.

17 SEC. 14. Section 1661 of the Insurance Code is amended to
18 read:

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

36 SEC. 15. Section 1662 of the Insurance Code is amended to
37 read:

38 1662. A property broker-agent and a casualty broker-agent
39 shall, prior to acting in the capacity of an insurance broker, file
40 and continuously maintain in force the bond required by this article.

1 Any authority to act as broker shall automatically terminate
2 immediately upon there being no bond in force.

3 SEC. 16. Section 1665 of the Insurance Code is amended to
4 read:

5 1665. The bond of a property broker-agent and a casualty
6 broker-agent shall be in the amount of ten thousand dollars
7 (\$10,000). Individuals and organizations licensed for both property
8 and casualty are only required to obtain one ten-thousand-dollar
9 (\$10,000) bond to act as a broker. The bond shall be contingent
10 on the accounting by the property broker-agent or the casualty
11 broker-agent to any person requesting insurance, for moneys or
12 premiums collected by the property broker-agent or the casualty
13 broker-agent when acting as a broker for insurance other than life.

14 SEC. 17. Section 1675 of the Insurance Code is amended to
15 read:

16 1675. Except as provided in Section 1680, the following
17 applicants who have theretofore been licensed under this code are
18 exempt from the requirements of this article:

19 (a) An applicant for a license to act as a property broker-agent
20 or a casualty broker-agent who has been licensed as a property
21 broker-agent, casualty broker-agent, or surplus line broker during
22 any part of the license year in which the application is filed or the
23 immediately preceding license year.

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

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

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

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

36 (f) A nonresident licensee who applies for a property
37 broker-agent, casualty broker-agent, personal lines broker-agent,
38 or life agent resident license in this state, and who is currently
39 licensed for the same lines of authority in the state of his or her
40 current resident license, shall not be required to complete an

1 examination. The application shall be received within 90 days of
2 the cancellation of the applicant's resident license and the producer
3 database records, maintained by the National Association of
4 Insurance Commissioners, shall indicate that the producer is
5 licensed in good standing for the line of authority requested.

6 SEC. 18. Section 1676 of the Insurance Code is amended to
7 read:

8 1676. (a) Except as set forth in Sections 1675 and 1679, the
9 commissioner shall not issue a permanent license pursuant to this
10 chapter to an applicant therefor unless the applicant has within the
11 12-month period next preceding the date of issue of the license
12 taken and passed the qualifying examination for that license. This
13 section shall not apply to a person licensed as a property
14 broker-agent or as a casualty broker-agent who applies for a license
15 as a personal lines broker-agent.

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

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

34 SEC. 19. Section 1679 of the Insurance Code is amended to
35 read:

36 1679. (a) A nonresident applicant for a license shall be subject
37 to the same qualifying examination as is required of a resident
38 applicant. The examination may be administered to an eligible
39 nonresident applicant through the insurance authority of the state,
40 territory of the United States, or province of Canada of his or her

1 residence; provided, however, that the commissioner may, in his
2 or her discretion, enter into a reciprocal arrangement with the
3 officer having supervision of the insurance business in any other
4 state, territory of the United States, or province of Canada whose
5 qualification standards for the applicant to be examined are
6 substantially the same as or in excess of those of this state, to
7 accept, in lieu of the examination of an applicant residing therein,
8 a certificate of the officer to the effect that the applicant is licensed
9 in that state, territory of the United States, or province of Canada
10 in a capacity similar to that for which a license is sought in this
11 state and has complied with its qualification standards in respect
12 to all of the following:

13 (1) Experience or training.

14 (2) Reasonable familiarity with the broad principles of insurance
15 licensing and regulatory laws and with the provisions, terms, and
16 conditions of the insurance which the applicant proposes to
17 transact.

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

20 (b) The provisions of this section shall not apply to a nonresident
21 applicant who maintains a license in a jurisdiction that grants
22 reciprocity to California residents in accordance with Section
23 1638.5.

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

29 SEC. 20. Section 1680 of the Insurance Code is repealed.

30 SEC. 21. Section 1686 of the Insurance Code is amended to
31 read:

32 1686. To be eligible for an estate certificate of convenience, a
33 person shall be one of the following:

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

36 (b) If no executor or administrator has been appointed, the
37 surviving spouse or heir otherwise entitled to conduct the business
38 of the deceased property broker-agent, casualty broker-agent, or
39 life agent.

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

3 SEC. 22. Section 1693 of the Insurance Code is amended to
4 read:

5 1693. An estate certificate of convenience expires upon the
6 happening of any of the following events, whichever occurs first:

7 (a) Upon the filing with the commissioner of a certified copy
8 of an order appointing an executor or administrator, if the certificate
9 of convenience has been issued to a person other than the person
10 so appointed executor or administrator.

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

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

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

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

28 SEC. 23. Section 1704 of the Insurance Code is amended to
29 read:

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

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

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

19 (2) The filing of a notice of termination by the insurer or
20 employing property broker-agent or casualty broker-agent, or by
21 the appointed life agent, property broker-agent, casualty
22 broker-agent, travel insurance agent, or insurance solicitor.

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

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

37 (d) A property broker-agent or a casualty broker-agent
38 appointing an insurance solicitor pursuant to this section, if a
39 natural person, shall be the holder of a permanent license to act as
40 such a broker-agent or the holder of a certificate of convenience

1 so to act issued pursuant to either subdivision (a) or (b) of Section
2 1685. If the property broker-agent or the casualty broker-agent is
3 an organization, it shall be the holder of a permanent license.

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

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

23 SEC. 24. Section 1705 of the Insurance Code is amended to
24 read:

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

31 (a) The applicant is of good reputation.

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

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

1 of which is authorized by the license sought, or will be given the
2 necessary instruction within 30 days after the issuance of the
3 license.

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

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

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

39 1707.7. As part of the report required under Section 12922,
40 the commissioner shall provide the following information for the

1 previous calendar year ending December 31 for five years after
2 the operative date of this section:

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

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

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

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

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

23 SEC. 27. Section 1712.5 of the Insurance Code is amended to
24 read:

25 1712.5. (a) The license of an organization licensed as a
26 property broker-agent, casualty broker-agent, or life agent shall
27 become inoperative upon the removal or termination of the last
28 natural person named thereon.

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

33 SEC. 28. Section 1725 of the Insurance Code is amended to
34 read:

35 1725. Every license to act as a property broker-agent and every
36 license to act as a casualty broker-agent shall be prominently
37 displayed by the holder thereof in his or her office in a manner
38 whereby anyone may readily inspect it and ascertain both its
39 currency and the capacity in which its holder is licensed to act.

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

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

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

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

“Representing ____;”

“A stockholder of ____;”

“Placing business through ____;”

“Using services of ____.”

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

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

1730.5. A life agent, a property broker-agent, and a casualty broker-agent shall provide to all insureds or applicants at the time of application or receipt of premium moneys the effective date of coverage, if known, or the circumstances under which coverage will be effective if there exists conditions precedent to coverage. This section shall apply only to coverage for personal lines of insurance, such as private passenger automobile, homeowner and renter insurance, personal liability, and individual disability and health insurance.

1 SEC. 32. Section 1730.6 of the Insurance Code is amended to
2 read:

3 1730.6. (a) Every property broker-agent and every casualty
4 broker-agent shall, prior to arranging premium financing or
5 transacting any agreement for the periodic payment of premium
6 for any new or renewal policy of insurance specified in Section
7 660, disclose to any applicant or prospective insured any options
8 for premium financing or the periodic payment of premium from
9 the insurer or, if applicable, the California Automobile Assigned
10 Risk Plan, that are available for the insurance being purchased.
11 This disclosure may be in the form of a written document. In the
12 event the applicant or prospective insured elects to enter into an
13 agreement for premium financing, the property broker-agent and
14 casualty broker-agent shall comply with the requirements of
15 Section 778.4.

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

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

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

24 SEC. 33. Section 1735 of the Insurance Code is amended to
25 read:

26 1735. (a) As used in this section, a managing general agent is
27 a licensed property broker-agent and casualty broker-agent, or a
28 life agent to whom all of the following apply:

29 (1) Has a written management contract and an appointment on
30 file with the commissioner in accordance with Section 1704, which
31 appointment is then in force, with one or more admitted insurers
32 covering business transacted by the insurer in a substantial portion
33 of the State of California.

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

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

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

1 (5) Collects premium moneys from producing broker-agents
2 and remits those moneys to those insurers pursuant to the account
3 current system.

4 (b) The managing general agent shall, with respect to any
5 principals for whom fiduciary funds are held, comply with Section
6 1734.

7 SEC. 34. Section 1735.5 of the Insurance Code is amended to
8 read:

9 1735.5. A property broker-agent, casualty broker-agent, or
10 surplus line broker may offset funds due an insured for return
11 premiums on any policy against amounts due him or her from the
12 same insured for unpaid premiums on the same or any other policy.
13 Any insurer may pay return premiums to any property broker-agent
14 or any casualty broker-agent for that purpose. This section shall
15 not invalidate an assignment of return premium made concurrently
16 with policy issuance as security for financing that premium, nor
17 the right of the assignee, or his or her assign, to enforce the
18 assignment as a prior claim.

19 SEC. 35. Section 1747 of the Insurance Code is amended to
20 read:

21 1747. Whenever the commissioner may determine or have
22 good cause to believe that any property broker-agent or casualty
23 broker-agent has failed to keep or maintain the records required
24 by Section 1727, in connection with or in lieu of any other
25 disciplinary action against the license of the licensee, the
26 commissioner may issue his or her order requiring the licensee to
27 establish and currently complete those records within 60 days from
28 the date of the order. When the order is given in lieu of other
29 disciplinary action, notice of the order may be given by certified
30 mail addressed to the office of the licensee. Failure of the licensee
31 to comply with the order within the time specified therein shall be
32 grounds for the suspension or revocation of the license or licenses
33 of the licensee, and the proceeding shall be conducted in
34 accordance with Chapter 5 (commencing with Section 11500) of
35 Part 1 of Division 3 of Title 2 of the Government Code.

36 SEC. 36. Section 1749 of the Insurance Code is amended to
37 read:

38 1749. The department shall require all new applicants for
39 license as a property broker-agent, casualty broker-agent, limited
40 lines automobile insurance agent, personal lines broker-agent,

1 life-only agent, or accident and health agent to meet prelicensing
2 education standards as follows:

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

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

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

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

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

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

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

(h) An applicant for a life-only agent license, an accident and health license, a personal lines broker-agent license, or a limited lines automobile insurance agent license, who is currently licensed as a nonresident in this state shall be required to complete only the course of study on ethics and this code, as required by this section. Additionally, any applicant for that license holding one or more of the designations specified in subdivisions (a) to (p), inclusive, of Section 1749.4 shall be exempted from any requirement for courses in general insurance that would otherwise be a condition of issuance of the license.

(i) An applicant for a property broker-agent or casualty broker-agent license who is currently licensed as a nonresident in this state shall be required to complete only the course of study on ethics and this code, as required by subdivision (g). Additionally, any applicant for a license holding one or more of the designations specified in subdivisions (a) to (p), inclusive, of Section 1749.4, shall be exempted from any requirement for courses in general

1 insurance that would otherwise be a condition of issuance of a
2 license.

3 (j) An applicant for a property broker-agent or casualty
4 broker-agent license or both who is licensed as a personal lines
5 agent shall complete a minimum of 20 hours of prelicensing study
6 as a prerequisite for each of these licenses. The curriculum for
7 satisfying this requirement shall be approved by the curriculum
8 board and submitted to the commissioner for final approval. The
9 applicant shall not be required to repeat any prelicensing
10 requirements completed as a prerequisite to being licensed as a
11 personal lines agent.

12 (k) Review and approval of prelicensing courses not conducted
13 in a classroom, as referenced in subdivisions (a) to (j), inclusive,
14 shall include an evaluation of the safeguards in place to ensure
15 that the student completing the course is the person enrolled in the
16 course, methods used to monitor the student's attendance are
17 adequate, methods for the student to interact with the entity
18 providing the training exist, and methods used to record the times
19 spent completing the course are adequate.

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

23 SEC. 37. Section 1749.2 of the Insurance Code is amended to
24 read:

25 1749.2. The purpose of Sections 1749.3 to 1749.6, inclusive,
26 is to establish requirements and standards for continuing education
27 programs for persons licensed as property broker-agents, casualty
28 broker-agents, and life agents.

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

36 SEC. 38. Section 1749.33 of the Insurance Code is amended
37 to read:

38 1749.33. (a) A life-only agent licensee shall satisfactorily
39 complete 24 hours of instruction prior to renewal of the license.

1 These hours of instruction may be completed at any time prior to
2 renewal of the license.

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

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

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

30 SEC. 39. Section 1749.4 of the Insurance Code is amended to
31 read:

32 1749.4. The courses or programs of instruction successfully
33 completed that shall be deemed to meet the standards for continuing
34 educational requirements, and the number of classroom hours for
35 which they are equivalent, are as follows:

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

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

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

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

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

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

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

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

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

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

26 (k) Any part of the Registered Employee Benefits Consultant
27 (REBC) program totaling 30 hours for the accident and health
28 license.

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

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

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

37 (o) Any course or program of instruction or seminar developed
38 or sponsored by an authorized insurer, recognized agents'
39 association, or insurance trade association, or any independent
40 program of instruction shall, if approved by the curriculum board

1 and the commissioner, qualify for the equivalency of the number
2 of classroom hours assigned thereto by the curriculum board and
3 the commissioner.

4 (p) Any correspondence course approved by the curriculum
5 board and the commissioner shall qualify for the equivalency of
6 the number of classroom hours assigned thereto by the
7 commissioner.

8 SEC. 40. Section 1749.8 of the Insurance Code is amended to
9 read:

10 1749.8. (a) Every life agent who sells annuities shall
11 satisfactorily complete eight hours of training prior to soliciting
12 individual consumers in order to sell annuities.

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

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

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

35 For the purposes of this section, "direct response provider" means
36 an insurer that meets each of the following criteria:

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

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

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

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

8 SEC. 41. Section 1749.85 of the Insurance Code is amended
9 to read:

10 1749.85. (a) The curriculum committee shall, in 2006, make
11 recommendations to the commissioner to instruct property
12 broker-agents, casualty broker-agents, and personal lines
13 broker-agents and applicants for property broker-agent, casualty
14 broker-agent, and personal lines broker-agent licenses in proper
15 methods of estimating the replacement value of structures, and of
16 explaining various levels of coverage under a homeowners'
17 insurance policy. Each provider of courses based upon this
18 curriculum shall submit its course content to the commissioner for
19 approval.

20 (b) A person who is not an insurer underwriter or actuary or
21 other person identified by the insurer, or a licensed property
22 broker-agent, casualty broker-agent, personal lines broker-agent,
23 contractor, or architect shall not estimate the replacement value
24 of a structure, or explain various levels of coverage under a
25 homeowners' insurance policy.

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

29 (d) However, if the Department of Insurance, by adopting a
30 regulation, establishes standards for the calculation of estimates
31 of replacement value of a structure by appraisers, then on and after
32 the effective date of the regulation a real estate appraiser's estimate
33 of replacement value shall be calculated in accordance with the
34 regulation.

35 SEC. 42. Section 1750 of the Insurance Code is amended to
36 read:

37 1750. The commissioner shall require in advance as a fee for
38 filing application for the hereinafter designated licenses, renewals
39 thereof, or changes in outstanding licenses, an amount calculated
40 as set forth herein. The fee is determined by multiplying the number

1 of license years in the period of the license applied for or the
2 remaining period of an existing license counting any initial
3 fractional license year of that period as one year for that purpose,
4 as follows:

- 5 (a) Casualty broker-agent, fifty-six dollars (\$56).
- 6 (b) Property broker-agent, fifty-six dollars (\$56).
- 7 (c) Property and casualty broker-agent, when applied for on a
8 single application, fifty-six dollars (\$56).
- 9 (d) Personal lines broker-agent, resident, fifty-six dollars (\$56).
- 10 (e) Life agent, resident, fifty-six dollars (\$56).
- 11 (f) Life agent, nonresident, fifty-six dollars (\$56).
- 12 (g) Surplus line broker who is an individual transacting only on
13 behalf of a surplus line broker organization, two hundred fifty
14 dollars (\$250).
- 15 (h) Surplus line broker not described in subdivision (e), five
16 hundred dollars (\$500).

17 SEC. 43. Section 1750.5 of the Insurance Code is amended to
18 read:

19 1750.5. (a) The fee for filing an application for a nonresident
20 license described in Section 1639, and renewal thereof or changes
21 in outstanding licenses, shall be the same amount that is established
22 in this code for a resident license of the same type. If the applicant's
23 state, territory of the United States, commonwealth, or Canadian
24 province of residence has fees for any nonresident insurance license
25 greater than for a like resident license, the commissioner may
26 charge a fee equal to the amount a California resident would be
27 required to pay to obtain a like license for a like term in the
28 applicant's state, territory of the United States, commonwealth, or
29 Canadian province of residence.

30 (b) The fee for filing an application for a nonresident limited
31 lines license described in Section 1639, and renewal thereof or
32 changes in outstanding licenses, shall be the same amount that is
33 established in this code for a resident property broker-agent license
34 or a resident casualty broker-agent license. This section shall not
35 be construed to require a countersignature on a policy or contract,
36 or the payment of a countersignature fee.

37 SEC. 44. Section 1751 of the Insurance Code is amended to
38 read:

39 1751. The commissioner shall require, in advance, a fee for
40 filing the following documents:

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

- 3 (1) Casualty broker-agent, fifty-six dollars (\$56).
4 (2) Property broker-agent, fifty-six dollars (\$56).
5 (3) Property and casualty broker-agent, when applied for on a
6 single application, fifty-six dollars (\$56).
7 (4) Life agent, resident, forty-eight dollars (\$48).
8 (5) Life agent, nonresident, fifty-three dollars (\$53).
9 (6) Personal lines broker-agent, fifty-six dollars (\$56).

10 (b) Notice for adding or removing from any life agent's, property
11 broker-agent's, casualty broker-agent's, or personal lines
12 broker-agent's license issued to an organization the name of any
13 natural person named thereon, sixteen dollars (\$16).

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

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

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

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

26 (g) Application which includes a request for a certificate of
27 convenience pursuant to Article 8 (commencing with Section
28 1685), twenty dollars (\$20) in addition to, and not in lieu of, fees
29 otherwise required.

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

34 (i) "A ratification of appointments of agents" whereby the
35 surviving insurer in a merger or consolidation assumes
36 responsibility for all agents then lawfully appointed for one of the
37 constituent insurers and makes each its agent, one hundred three
38 dollars (\$103).

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

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

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

9 (k) A bond, pursuant to Article 5 (commencing with Section
10 1662) or Section 1760.5 or 1765, except when the bond constitutes
11 part of an original application filing, sixteen dollars (\$16).

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

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

16 SEC. 45. Section 1751.3 of the Insurance Code is amended to
17 read:

18 1751.3. The commissioner shall require sixteen dollars (\$16)
19 in advance as a fee for filing each notice of appointment or each
20 notice of termination pursuant to Section 1707 of any of the
21 following:

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

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

24 (c) A life agent.

25 (d) A travel insurance agent.

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

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

28 SEC. 46. Section 1755 of the Insurance Code is amended to
29 read:

30 1755. That license shall be applied for and renewed in the same
31 manner as is provided in this chapter for a licensee to act as a
32 property broker-agent or a casualty broker-agent, except that an
33 applicant for a limited license as a travel insurance agent need not
34 pass a qualifying examination, and that the fee for filing an
35 application shall be sixteen dollars (\$16) for each year or fraction
36 thereof in the term of the license applied for.

37 SEC. 47. Section 1757.2 of the Insurance Code is amended to
38 read:

39 1757.2. A limited license shall be applied for and renewed in
40 the same manner as is provided in this chapter for a licensee to act

1 as a property broker-agent or a casualty broker-agent, except that
2 an applicant for a limited license as a cargo shipper's agent need
3 not pass a qualifying examination and is exempt from the
4 prelicensing and continuing education requirements. The fee for
5 filing an application shall be nineteen dollars (\$19) for each year
6 or fraction thereof of the term of the license applied for.

7 SEC. 48. Section 1758.2 of the Insurance Code is amended to
8 read:

9 1758.2. Any authority granted pursuant to the provisions of
10 this article shall be effective only while a permanent underlying
11 life agent's license and registration in accordance with the rules
12 of the United States Securities and Exchange Commission or the
13 Financial Industry Regulatory Authority remains in full force and
14 effect. The provisions of subdivision (b) of Section 1704 relating
15 to the inactivation and reactivation of the underlying life agent's
16 license, and the renewal thereof, shall apply to any authority issued
17 pursuant to this article, except that references to agency
18 appointments and terminations shall relate only to the underlying
19 life agent's license. The authority may be revoked, suspended, or
20 otherwise affected for the same reasons and by the same procedures
21 as a life agent's license.

22 SEC. 49. Section 1758.3 of the Insurance Code is amended to
23 read:

24 1758.3. The commissioner shall not grant authority to transact
25 variable contracts unless the life agent or applicant furnishes proof
26 that he or she is registered to sell securities in accordance with the
27 rules of the United States Securities and Exchange Commission
28 or the Financial Industry Regulatory Authority. Any authority
29 granted to a life agent to transact variable contracts shall
30 immediately terminate upon the life agent no longer being
31 registered to sell securities in accordance with the rules of the
32 United States Securities and Exchange Commission or the Financial
33 Industry Regulatory Authority.

34 SEC. 50. Section 1758.87 of the Insurance Code is amended
35 to read:

36 1758.87. A rental car agent shall not do any of the following:

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

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

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

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

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

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

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

(c) Pay any unlicensed person any compensation, fee, or commission dependent on the placement of insurance under the agent's license. Nothing in this subdivision shall prohibit production payments or incentive payments to an endorsee.

SEC. 52. ~~Section 1765.3 of the Insurance Code is amended to read:~~

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

SEC. 52. *Section 1765.3 of the Insurance Code is amended and renumbered to read:*

~~1765.3.~~

1765.4. Any natural person applying for a license to act as a surplus line broker shall prove his or her competency by showing he or she holds an existing license to act as a ~~fire~~ property broker-agent and casualty broker-agent, which requires passing

1 the qualifying examination for ~~such an~~ *that* insurance broker's
2 license.

3 *SEC. 53. Section 1765.4 of the Insurance Code is amended*
4 *and renumbered to read:*

5 ~~1765.4.~~

6 *1765.5.* If an applicant for any license under this chapter, within
7 one year from the date of the receipt by the commissioner of the
8 application, whether or not the filing is complete, neither fully
9 qualifies for and receives ~~such that~~ license on a permanent basis,
10 nor is denied its issue, such application is automatically denied
11 without prejudice to the filing of a new application for the license.

12 ~~SEC. 53.~~

13 *SEC. 54. Section 10236.1 of the Insurance Code is amended*
14 *to read:*

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

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

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

32 (1) Statistical credibility of incurred claims experience and
33 earned premiums.

34 (2) The period for which rates are computed to provide coverage.

35 (3) Experienced and projected trends.

36 (4) Concentration of experience within early policy duration.

37 (5) Expected claim fluctuation.

38 (6) Experience refunds, adjustments, or dividends.

39 (7) Renewability features.

40 (8) All appropriate expense factors.

1 (9) Interest.

2 (10) Experimental nature of the coverage.

3 (11) Policy reserves.

4 (12) Mix of business by risk classification.

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

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

15 ~~SEC. 54.~~

16 *SEC. 55.* Section 10785 of the Insurance Code is amended to
17 read:

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

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

29 (1) Has had 18 or more months of creditable coverage, and
30 whose most recent prior creditable coverage was under a group
31 health plan, a federal governmental plan maintained for federal
32 employees, or a governmental plan or church plan as defined in
33 the federal Employee Retirement Income Security Act of 1974
34 (29 U.S.C. Sec. 1002).

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

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

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

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

8 (d) A disability insurer shall offer the following health benefit
9 plans under this section that are designed for, made generally
10 available to, are actively marketed to, and enroll, individuals:

11 (1) either the two most popular products as defined in Section
12 300gg-41(c)(2) of Title 42 of the United States Code and Section
13 148.120(c)(2) of Title 45 of the Code of Federal Regulations or

14 (2) the two most representative products as defined in Section
15 300gg-41(c)(3) of the United States Code and Section
16 148.120(c)(3) of Title 45 of the Code of Federal Regulations, as
17 determined by the insurer in compliance with federal law. An
18 insurer that offers only one health benefit plan to individuals,
19 excluding health benefit plans offered to Medi-Cal or Medicare
20 beneficiaries, shall be deemed to be in compliance with this chapter
21 if it offers that health benefit plan contract to federally eligible
22 defined individuals in a manner consistent with this chapter.

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

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

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

39 (2) A disability insurer, upon denying health insurance coverage
40 in any service area in accordance with subparagraph (B) of

1 paragraph (1), may not offer health benefit plans through a network
2 in the individual market within that service area for a period of
3 180 days after the coverage is denied.

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

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

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

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

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

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

34 (i) Every disability insurer shall disclose as part of its COBRA
35 or Cal-COBRA disclosure and enrollment documents, an
36 explanation of the availability of guaranteed access to coverage
37 under the Health Insurance Portability and Accountability Act of
38 1996, including the necessity to enroll in and exhaust COBRA or
39 Cal-COBRA benefits in order to become a federally eligible
40 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.~~

10 SEC. 56. Section 11623 of the Insurance Code is amended to
11 read:

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

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 (3) Each insurer representative serving shall be either (A) a
24 salaried employee or officer of the named insurer or (B) a salaried
25 employee or officer of another insurer from a group of insurance
26 companies under the same management as the named insurer. A
27 salaried employee or officer of the holding company of the named
28 insurer may also be designated as the representative. At least two
29 insurer representatives shall be employed by insurers having their
30 principal headquarters located in California. At least two insurer
31 representatives shall represent companies who have average annual
32 automobile liability premiums in California below one hundred
33 million dollars (\$100,000,000) in the prior three years. At least
34 one insurer representative shall represent an insurer with average
35 annual automobile liability premiums in California exceeding one
36 hundred million dollars (\$100,000,000) in the prior three years.
37 At least one insurer representative shall represent an insurer with
38 average annual automobile liability premiums in California
39 exceeding seven hundred million dollars (\$700,000,000) in the
40 prior three years.

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

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

11 (6) The advisory committee with the approval of the
12 commissioner shall appoint a manager to carry out the purposes
13 of this article, employ sufficient personnel to provide services
14 necessary to the operation of the plan, and contract for the provision
15 of statistical and actuarial services.

16 (7) The cost of the plan, including any personnel and contracting
17 costs, shall be fairly apportioned among the subscribing insurers
18 to whom assignments may be made. The costs associated shall be
19 directly attributable to the management of the plan and directly
20 related to its programs. In consultation with the advisory
21 committee, the commissioner shall develop, issue, and adopt
22 regulations to carry out the purposes of this article.

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

31 ~~SEC. 56.~~

32 *SEC. 57.* Section 11691 of the Insurance Code is amended to
33 read:

34 11691. (a) (1) In order to provide protection to the workers
35 of this state in the event that the insurers issuing workers'
36 compensation insurance to employers fail to pay compensable
37 workers' compensation claims when due, except in the case of the
38 State Compensation Insurance Fund, every insurer desiring
39 admission to transact workers' compensation insurance, or workers'
40 compensation reinsurance business, or desiring to reinsure the

1 injury, disablement, or death portions of policies of workers'
2 compensation insurance under the class of disability insurance
3 shall, as a prerequisite to admission, or ability to reinsure the injury,
4 disablement, or death portion of policies of workers' compensation
5 insurance under the class of disability insurance, deposit cash
6 instruments or approved interest-bearing securities or approved
7 stocks readily convertible into cash, investment certificates, or
8 share accounts issued by a savings and loan association doing
9 business in this state and insured by the Federal Deposit Insurance
10 Corporation, certificates of deposit, or savings deposits in a bank
11 licensed to do business in this state, or is either domiciled in and
12 has a principal place of business in this state, or is a national bank
13 association with a trust office located in this state, or approved
14 letters of credit that perform in material respects as any other
15 security allowable as a form of deposit for purposes of a workers'
16 compensation deposit and that meet the standard set forth in Section
17 922.5, or approved securities registered with a qualified depository
18 located in a reciprocal state as defined in Section 1104.9, with that
19 deposit to be in an amount and subject to any exceptions as set
20 forth in this article. The deposit shall be made from time to time
21 as demanded by the commissioner and may be made with the
22 Treasurer, or a bank or savings and loan association authorized to
23 engage in the trust business pursuant to Division 1 (commencing
24 with Section 99) or Division 2 (commencing with Section 5000)
25 of the Financial Code, or a trust company. A deposit of securities
26 registered with a qualified depository located in a reciprocal state
27 as defined in Section 1104.9 may only be made in a bank or savings
28 and loan association authorized to engage in the trust business
29 pursuant to Division 1 (commencing with Section 99) or Division
30 2 (commencing with Section 5000) of the Financial Code, or a
31 trust company, licensed to do business and located in this state
32 that is a qualified custodian as defined in paragraph (1) of
33 subdivision (a) of Section 1104.9 and that maintains deposits of
34 at least seven hundred fifty million dollars (\$750,000,000). The
35 deposit shall be made subject to the approval of the commissioner
36 under those rules and regulations that he or she shall promulgate.
37 The deposit shall be maintained at a deposit value specified by the
38 commissioner, but in any event no less than one hundred thousand
39 dollars (\$100,000), nor less than the reserves required of the insurer
40 to be maintained under any of the provisions of Article 1

(commencing with Section 11550) of Chapter 1, relating to loss reserves on workers' compensation business of the insurer in this state, nor less than the sum of the amounts specified in subdivision (a) of Section 11693, whichever is greater. The deposit shall be for the purpose of paying compensable workers' compensation claims under policies issued by the insurer or reinsured by the admitted reinsurer and expenses as provided in Section 11698.02, in the event the insurer or reinsurer fails to pay those claims when they come due. If the insurer providing the deposit is domiciled in a state where a state statute, regulation, or court decision provides that, with respect to covered claims within the deductible amount that are paid by a guarantee association after the entry of an order of liquidation under large deductible workers' compensation policies, any part of the reimbursement proceeds, other than the reasonable expenses of the receiver related to treatment of deductible policy arrangements of insurance companies in liquidation, owed by insureds on those deductible amounts, whether paid directly or through a draw of collateral, are general assets of the estate, then the amount of the insurer's deposit pursuant to this article shall be calculated based on the gross amount of that insurer's liabilities for loss and loss adjustment expenses under those policies without regard to the deductible, and those reserves shall not be reduced by any collateral or reimbursement obligations insureds were required to provide under those policies.

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

(b) Each insurer or reinsurer desiring to have the ability to reinsure the injury, disablement, or death portions of policies of workers' compensation under the class of disability insurance shall provide prior notice to the commissioner, in the manner and form prescribed by the commissioner of its intent to reinsure that insurance. In the event of late notice, a late filing fee shall be imposed on the reinsurer pursuant to Section 924 for failure to notify the commissioner of its intent to reinsure workers' compensation insurance.

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

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

24 (2) The commissioner shall require payment in advance of a
25 fee for the initial filing of each letter of credit utilized pursuant to
26 subdivision (a). In addition, the commissioner shall require
27 payment in advance of a fee for each amendment of a letter of
28 credit. The fees shall be set forth in the department's Schedule of
29 Fees and Charges.

30 (e) Any workers' compensation insurer that deposits cash or
31 cash equivalents pursuant to this section shall be entitled to a
32 prompt refund of those deposits in excess of the amount determined
33 by the commissioner pursuant to subdivision (a). The commissioner
34 shall cause to be refunded any deposits determined by the
35 commissioner to be in excess of the amount required by subdivision
36 (a) within 30 days of that determination. In the alternative, an
37 insurer may use any excess deposit funds to offset a demand by
38 the commissioner to increase its deposit due to the failure of a
39 reinsurer to make a deposit pursuant to this section.

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

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

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

33 (4) All sums received from the reinsurer by the commissioner
34 for those claims paid by the California Insurance Guarantee
35 Association shall be held separate and apart from and not included
36 in the general assets of the insolvent insurer, and shall be
37 transferred to the California Insurance Guarantee Association upon
38 receipt by the commissioner. In the event of a final judgment or
39 settlement adverse to the drawing of funds by the commissioner
40 pursuant to paragraph (2) or (3), the California Insurance Guarantee

1 Association shall repay funds it obtained to pay covered claims
2 and shall, if necessary, either levy a surcharge as needed or seek
3 legislative approval to levy the surcharge if the California Insurance
4 Guarantee Association is already levying the maximum surcharge
5 permissible under law.

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

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

19 (i) Withdrawal of any amount of the deposit required under
20 subdivision (a) that results in a reduction of the required amount
21 of the deposit may only occur with the prior written consent of the
22 commissioner.

23 ~~SEC. 57.~~

24 *SEC. 58.* Section 12815 of the Insurance Code is amended to
25 read:

26 12815. (a) An obligor who is not a seller shall possess a vehicle
27 service contract provider license. A vehicle service contract
28 provider license shall be applied for and maintained, and its holder
29 shall be subject to disciplinary action, as if it were a property
30 broker-agent and casualty broker-agent license, with the following
31 exceptions:

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

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

38 (b) A service contract administrator shall be licensed as a
39 property broker-agent and casualty broker-agent.

1 ~~SEC. 58.~~

2 *SEC. 59.* Section 12938 of the Insurance Code is amended to
3 read:

4 12938. Notwithstanding any other provision of law, the
5 department shall make available for public inspection and publish
6 on its Internet Web site all of the information described in
7 subdivisions (a) and (b). This information shall be maintained in
8 a current, up-to-date condition. All identifying and privileged
9 information regarding individual policyholders shall be redacted
10 from documents available for public inspection and on the Internet
11 Web site.

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

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

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

31 (3) Twenty business days after the transmittal the commissioner
32 shall publish on the department's Internet Web site the adopted
33 report and any comments submitted by the examined insurer unless
34 a court of competent jurisdiction has stayed the publication of the
35 report.

36 (c) This section may not be construed to require the disclosure
37 of company workpapers or other company documents discovered

- 1 during the course of an examination or any preliminary report of
- 2 the examination, except as otherwise permitted by law.

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