

AMENDED IN SENATE MARCH 28, 2012

SENATE BILL

No. 1170

Introduced by Senator Leno
(Coauthor: Senator Strickland)
(Coauthor: Assembly Member Chesbro)

February 22, 2012

An act to amend Section 1770 of the Civil Code, and to amend Sections 787 ~~and~~, 787.1, and 789.10 of, and to add Section 785.5 to, the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 1170, as amended, Leno. Senior insurance.

(1) Existing law makes it unlawful to engage in specified practices, unfair methods of competition, and unfair or deceptive acts or practices in a transaction intended to result or that results in the sale or lease of goods or services, including making false or misleading statements concerning the existence of price reductions, or the home solicitation of a consumer who is a senior citizen where a loan is made encumbering the primary residence of that consumer for purposes of paying for home improvements. A consumer who suffers damages as a result of the use or employment of the prohibited acts or practices may bring an action to recover civil damages of at least \$1,000, and, if the victim is a senior citizen and the trier of fact makes specified findings, including that the consumer has suffered substantial physical, emotional, or economic damage resulting from the defendant's conduct, to recover an additional amount of up to \$5,000.

This bill would expand that provision to include advertising or promoting any event, presentation, seminar, workshop, or other public gathering regarding veterans' benefits or entitlements that does not

include a statement that the person disseminating the statement is not authorized to file an initial application for veterans' benefits or that the event is not sponsored by or affiliated with specified veterans' organizations, including the United States Department of Veterans Affairs. The bill would also make a conforming change.

(2) Existing law provides that all insurers, brokers, agents, and others engaged in the transaction of insurance owe a prospective insured who is 65 years of age or older, a duty of honesty, good faith, and fair dealing. This duty is in addition to any other duty, whether express or implied, that may exist.

This bill would make it unlawful for an insurance agent who is not licensed as an attorney to deliver to a person who is 65 years of age or older, or for an insurance agent who is licensed as an attorney to deliver to a person who is 65 years of age or older in that person's home, a living trust or other legal document if a purpose of the delivery is to sell an insurance product.

(3) Existing law requires any person who meets with a senior in the senior's home to deliver a specified notice to the senior in writing and in 14-point type no less than 24 hours prior to that individual's initial meeting in the senior's home.

This bill would additionally require the notice to be delivered no more than 14 days prior to the meeting. The bill would also require that the notice be a stand alone document in 16-point, rather than 14-point, type, that the notice include specified information regarding the agent, including his or her full name and license number, and that the notice include a specified statement.

(4)

(4) Existing law sets certain standards with regard to any advertisement, as defined, or other device designed to produce leads based on a response from a potential insured that is directed to a person 65 years of age or older, including, but not limited to, disclosing certain information, not using certain language, names, letters, or symbols, and not using specified deceptive or misleading practices and materials.

This bill would change the definition of advertisement to also include worksheets, questionnaires, or other materials designed to collect personal or financial information about a prospective insured or annuitant. The bill would also add veterans organizations or agencies and the United States Department of Veterans Affairs to the list of those entities that cannot be used in specified deceptive or misleading advertising practices and materials.

(2)

(5) Existing law provides that a broker or agent may not use a senior designation unless he or she has met certain conditions, including, but not limited to, that the broker or agent has been granted the right and is currently authorized to use the senior designation by the organization that issues the designation, and the senior designation has been approved by the Insurance Commissioner for use by brokers and agents in the sale of insurance to seniors, as provided. Existing law deems certain words, phrases, acronyms, and logos as a senior designation.

This bill would add the ~~term~~ terms “entitlement,” “expert,” and “veteran” to those words deemed a senior designation.

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

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

1 SECTION 1. Section 1770 of the Civil Code is amended to
2 read:

3 1770. (a) The following unfair methods of competition and
4 unfair or deceptive acts or practices undertaken by any person in
5 a transaction intended to result or which results in the sale or lease
6 of goods or services to any consumer are unlawful:

7 (1) Passing off goods or services as those of another.

8 (2) Misrepresenting the source, sponsorship, approval, or
9 certification of goods or services.

10 (3) Misrepresenting the affiliation, connection, or association
11 with, or certification by, another.

12 (4) Using deceptive representations or designations of
13 geographic origin in connection with goods or services.

14 (5) Representing that goods or services have sponsorship,
15 approval, characteristics, ingredients, uses, benefits, or quantities
16 which they do not have or that a person has a sponsorship,
17 approval, status, affiliation, or connection which he or she does
18 not have.

19 (6) Representing that goods are original or new if they have
20 deteriorated unreasonably or are altered, reconditioned, reclaimed,
21 used, or secondhand.

22 (7) Representing that goods or services are of a particular
23 standard, quality, or grade, or that goods are of a particular style
24 or model, if they are of another.

- 1 (8) Disparaging the goods, services, or business of another by
2 false or misleading representation of fact.
- 3 (9) Advertising goods or services with intent not to sell them
4 as advertised.
- 5 (10) Advertising goods or services with intent not to supply
6 reasonably expectable demand, unless the advertisement discloses
7 a limitation of quantity.
- 8 (11) Advertising furniture without clearly indicating that it is
9 unassembled if that is the case.
- 10 (12) Advertising the price of unassembled furniture without
11 clearly indicating the assembled price of that furniture if the same
12 furniture is available assembled from the seller.
- 13 (13) Making false or misleading statements of fact concerning
14 reasons for, existence of, or amounts of price reductions.
- 15 (14) Representing that a transaction confers or involves rights,
16 remedies, or obligations which it does not have or involve, or
17 which are prohibited by law.
- 18 (15) Representing that a part, replacement, or repair service is
19 needed when it is not.
- 20 (16) Representing that the subject of a transaction has been
21 supplied in accordance with a previous representation when it has
22 not.
- 23 (17) Representing that the consumer will receive a rebate,
24 discount, or other economic benefit, if the earning of the benefit
25 is contingent on an event to occur subsequent to the consummation
26 of the transaction.
- 27 (18) Misrepresenting the authority of a salesperson,
28 representative, or agent to negotiate the final terms of a transaction
29 with a consumer.
- 30 (19) Inserting an unconscionable provision in the contract.
- 31 (20) Advertising that a product is being offered at a specific
32 price plus a specific percentage of that price unless (A) the total
33 price is set forth in the advertisement, which may include, but is
34 not limited to, shelf tags, displays, and media advertising, in a size
35 larger than any other price in that advertisement, and (B) the
36 specific price plus a specific percentage of that price represents a
37 markup from the seller's costs or from the wholesale price of the
38 product. This subdivision shall not apply to in-store advertising
39 by businesses which are open only to members or cooperative
40 organizations organized pursuant to Division 3 (commencing with

1 Section 12000) of Title 1 of the Corporations Code where more
2 than 50 percent of purchases are made at the specific price set forth
3 in the advertisement.

4 (21) Selling or leasing goods in violation of Chapter 4
5 (commencing with Section 1797.8) of Title 1.7.

6 (22) (A) Disseminating an unsolicited prerecorded message by
7 telephone without an unrecorded, natural voice first informing the
8 person answering the telephone of the name of the caller or the
9 organization being represented, and either the address or the
10 telephone number of the caller, and without obtaining the consent
11 of that person to listen to the prerecorded message.

12 (B) This subdivision does not apply to a message disseminated
13 to a business associate, customer, or other person having an
14 established relationship with the person or organization making
15 the call, to a call for the purpose of collecting an existing
16 obligation, or to any call generated at the request of the recipient.

17 (23) The home solicitation, as defined in subdivision (h) of
18 Section 1761, of a consumer who is a senior citizen where a loan
19 is made encumbering the primary residence of that consumer for
20 the purposes of paying for home improvements and where the
21 transaction is part of a pattern or practice in violation of either
22 subsection (h) or (i) of Section 1639 of Title 15 of the United States
23 Code or subsection (e) of Section 226.32 of Title 12 of the Code
24 of Federal Regulations.

25 A third party shall not be liable under this subdivision unless
26 (A) there was an agency relationship between the party who
27 engaged in home solicitation and the third party or (B) the third
28 party had actual knowledge of, or participated in, the unfair or
29 deceptive transaction. A third party who is a holder in due course
30 under a home solicitation transaction shall not be liable under this
31 subdivision.

32 (24) (A) Charging or receiving an unreasonable fee to prepare,
33 aid, or advise any prospective applicant, applicant, or recipient in
34 the procurement, maintenance, or securing of public social services.

35 (B) For purposes of this paragraph, the following definitions
36 shall apply:

37 (i) “Public social services” means those activities and functions
38 of state and local government administered or supervised by the
39 State Department of Health Care Services, the State Department
40 of Public Health, or the State Department of Social Services, and

1 involved in providing aid or services, or both, including health
2 care services, and medical assistance, to those persons who,
3 because of their economic circumstances or social condition, are
4 in need of that aid or those services and may benefit from them.

5 (ii) “Public social services” also includes activities and functions
6 administered or supervised by the United States Department of
7 Veterans Affairs or the California Department of Veterans Affairs
8 involved in providing aid or services, or both, to veterans, including
9 pension benefits.

10 (iii) “Unreasonable fee” means a fee that is exorbitant and
11 disproportionate to the services performed. Factors to be
12 considered, when appropriate, in determining the reasonableness
13 of a fee, are based on the circumstances existing at the time of the
14 service and shall include, but not be limited to, all of the following:

15 (I) The time and effort required.

16 (II) The novelty and difficulty of the services.

17 (III) The skill required to perform the services.

18 (IV) The nature and length of the professional relationship.

19 (V) The experience, reputation, and ability of the person
20 providing the services.

21 (C) This paragraph shall not apply to attorneys licensed to
22 practice law in California, who are subject to the California Rules
23 of Professional Conduct and to the mandatory fee arbitration
24 provisions of Article 13 (commencing with Section 6200) of
25 Chapter 4 of Division 3 of the Business and Professions Code,
26 when the fees charged or received are for providing representation
27 in administrative agency appeal proceedings or court proceedings
28 for purposes of procuring, maintaining, or securing public social
29 services on behalf of a person or group of persons.

30 (25) (A) *Advertising or promoting any event, presentation,*
31 *seminar, workshop, or other public gathering regarding veterans’*
32 *benefits or entitlements that does not include the following*
33 *statement in the same type size and font as the term “veteran” or*
34 *the variation of that term:*

35 (i) *“I am not authorized to file an initial application for*
36 *Veterans’ Aid and Attendance benefits on your behalf, or to*
37 *represent you before the Board of Veterans’ Appeals within the*
38 *United States Department of Veterans Affairs in any proceeding*
39 *on any matter, including an application for such benefits. It would*
40 *be illegal for me to accept a fee for preparing that application on*

1 *your behalf.” The requirements of this clause do not apply to a*
2 *person licensed to act as an agent or attorney in proceedings*
3 *before Agencies of Original Jurisdiction and the Board of*
4 *Veterans’ Appeals within the United States Department of Veterans*
5 *Affairs when that person is offering those services at the advertised*
6 *event.*

7 *(ii) The statement in clause (i) shall also be disseminated, both*
8 *orally and in writing, at the beginning of any event, presentation,*
9 *seminar, or public gathering regarding veterans’ benefits or*
10 *entitlements.*

11 *(B) Advertising or promoting any event, presentation, seminar,*
12 *workshop, or other public gathering regarding veterans’ benefits*
13 *or entitlements which is not sponsored by, or affiliated with, the*
14 *United States Department of Veterans Affairs, the California*
15 *Department of Veterans Affairs, or any other congressionally*
16 *chartered or recognized organization of honorably discharged*
17 *members of the Armed Forces of the United States, or any of their*
18 *auxiliaries that does not include the following statement, in the*
19 *same type size and font as the term “veteran” or the variation of*
20 *that term:*

21
22 *“This event is not sponsored by, or affiliated with, the United*
23 *States Department of Veterans Affairs, the California Department*
24 *of Veterans Affairs, or any other congressionally chartered or*
25 *recognized organization of honorably discharged members of the*
26 *Armed Forces of the United States, or any of their auxiliaries.*
27 *None of the insurance products promoted at this sales event are*
28 *endorsed by those organizations, all of which offer free advice to*
29 *veterans about how to qualify and apply for benefits.”*

30
31 *(i) The statement in this subparagraph shall be disseminated,*
32 *both orally and in writing, at the beginning of any event,*
33 *presentation, seminar, or public gathering regarding veterans’*
34 *benefits or entitlements.*

35 *(ii) The requirements of this subparagraph shall not apply in a*
36 *case where the United States Department of Veterans Affairs, the*
37 *California Department of Veterans Affairs, or other*
38 *congressionally chartered or recognized organization of honorably*
39 *discharged members of the Armed Forces of the United States, or*
40 *any of their auxiliaries has granted written permission to the*

1 *advertiser or promoter for the use of its name, symbol, or insignia*
2 *to advertise or promote the event, presentation, seminar, workshop,*
3 *or other public gathering.*

4 (b) (1) It is an unfair or deceptive act or practice for a mortgage
5 broker or lender, directly or indirectly, to use a home improvement
6 contractor to negotiate the terms of any loan that is secured,
7 whether in whole or in part, by the residence of the borrower and
8 which is used to finance a home improvement contract or any
9 portion thereof. For purposes of this subdivision, “mortgage broker
10 or lender” includes a finance lender licensed pursuant to the
11 California Finance Lenders Law (Division 9 (commencing with
12 Section 22000) of the Financial Code), a residential mortgage
13 lender licensed pursuant to the California Residential Mortgage
14 Lending Act (Division 20 (commencing with Section 50000) of
15 the Financial Code), or a real estate broker licensed under the Real
16 Estate Law (Division 4 (commencing with Section 10000) of the
17 Business and Professions Code).

18 (2) This section shall not be construed to either authorize or
19 prohibit a home improvement contractor from referring a consumer
20 to a mortgage broker or lender by this subdivision. However, a
21 home improvement contractor may refer a consumer to a mortgage
22 lender or broker if that referral does not violate Section 7157 of
23 the Business and Professions Code or any other provision of law.
24 A mortgage lender or broker may purchase an executed home
25 improvement contract if that purchase does not violate Section
26 7157 of the Business and Professions Code or any other provision
27 of law. Nothing in this paragraph shall have any effect on the
28 application of Chapter 1 (commencing with Section 1801) of Title
29 2 to a home improvement transaction or the financing thereof.

30 *SEC. 2. Section 785.5 is added to the Insurance Code, to read:*

31 *785.5. (a) It shall be unlawful for any insurance agent who is*
32 *not licensed as an attorney to deliver to a person who is 65 years*
33 *of age or older, a living trust or other legal document if a purpose*
34 *of the delivery is to sell an insurance product.*

35 *(b) It shall be unlawful for any insurance agent who is licensed*
36 *as an attorney to deliver to a person who is 65 years of age or*
37 *older, in that person’s home, a living trust or other legal document*
38 *if a purpose of the delivery is to sell an insurance product.*

39 *(c) This section does not apply to the delivery of previously*
40 *purchased insurance products.*

1 SECTION 1.

2 SEC. 3. Section 787 of the Insurance Code is amended to read:

3 787. Any advertisement or other device designed to produce
4 leads based on a response from a potential insured that is directed
5 towards persons 65 years of age or older shall prominently disclose
6 that an agent may contact the applicant if that is the fact. In
7 addition, an agent who makes contact with a person as a result of
8 acquiring that person's name from a lead generating device shall
9 disclose that fact in the initial contact with the person.

10 (a) An insurer, agent, broker, solicitor, or other person or other
11 entity shall not solicit persons 65 years of age and older in this
12 state for the purchase of disability insurance, life insurance, or
13 annuities through the use of a true or fictitious name that is
14 deceptive or misleading with regard to the status, character, or
15 proprietary or representative capacity of the entity or person, or
16 to the true purpose of the advertisement.

17 (b) For the purposes of this section, an advertisement includes
18 envelopes, stationery, business cards, worksheets, questionnaires,
19 or other materials designed to describe and encourage the purchase
20 of a policy or certificate of disability insurance, life insurance, or
21 an annuity, or to collect personal or financial information about a
22 prospective insured or ~~annuitant~~ *purchaser of an annuity*.

23 (c) Advertisements shall not employ words, letters, initials,
24 symbols, or other devices that are so similar to those used by
25 governmental agencies, a nonprofit or charitable institution,
26 veterans organization or agency, senior organization, or other
27 insurer that they could have the capacity or tendency to mislead
28 the public. Examples of misleading materials; include, but are not
29 limited to, those which imply any of the following:

30 (1) The advertised coverages are somehow provided by or are
31 endorsed by any governmental agencies, nonprofit or charitable
32 institutions, veterans organizations or agencies, or senior
33 organizations.

34 (2) The advertiser is the same as, is connected with, or is
35 endorsed by governmental agencies, nonprofit or charitable
36 institutions, veterans organizations or agencies, or senior
37 organizations.

38 (d) An advertisement may not use the name of a state or political
39 subdivision thereof in a policy name or description.

1 (e) An advertisement may not use any name, service mark,
2 slogan, symbol, or any device in any manner that implies that the
3 insurer, or the policy or certificate advertised, or that any agency
4 who may call upon the consumer in response to the advertisement,
5 is connected with a governmental agency, such as the Social
6 Security Administration or the United States Department of
7 Veterans Affairs.

8 (f) An advertisement may not imply that the reader may lose a
9 right, or privilege, or benefits under federal, state, or local law if
10 he or she fails to respond to the advertisement.

11 (g) An insurer, agent, broker, or other entity may not use an
12 address so as to mislead or deceive as to the true identity, location,
13 or licensing status of the insurer, agent, broker, or other entity.

14 (h) An insurer may not use, in the trade name of its insurance
15 policy or certificate, any terminology or words so similar to the
16 name of a governmental agency, governmental program, or
17 veterans organization or agency as to have the capacity or the
18 tendency to confuse, deceive, or mislead a prospective purchaser.

19 (i) All advertisements used by agents, producers, brokers,
20 solicitors, or other persons for a policy of an insurer shall have
21 written approval of the insurer before they may be used.

22 (j) An insurer, agent, broker, or other entity may not solicit a
23 particular class by use of advertisements which state or imply that
24 the occupational or other status as members of the class entitles
25 them to reduced rates on a group or other basis when, in fact, the
26 policy or certificate being advertised is sold on an individual basis
27 at regular rates.

28 (k) In addition to any other prohibition on untrue, deceptive, or
29 misleading advertisements, no advertisement for an event where
30 insurance products will be offered for sale at, or as a result of, the
31 event may use the terms “seminar,” “class,” “informational
32 meeting,” “benefits assistance,” “qualification information,” or
33 substantially equivalent terms to characterize the purpose of the
34 public gathering or event unless it adds the words “and insurance
35 sales presentation” immediately following those terms in the same
36 type size and font as those terms.

37 (l) *Any advertisement for an event, presentation, seminar,*
38 *workshop, or other public gathering regarding veterans’ benefits*
39 *or entitlements is required to comply with the requirements of*

1 *paragraph (25) of subdivision (a) of Section 1770 of the Civil*
2 *Code.*

3 ~~SEC. 2.~~

4 *SEC. 4.* Section 787.1 of the Insurance Code is amended to
5 read:

6 787.1. (a) The following definitions apply to this section:

7 (1) “Senior designation” means any degree, title, credential,
8 certificate, certification, accreditation, or approval, that expresses
9 or implies that a broker or agent possesses expertise, training,
10 competence, honesty, or reliability with regard to advising seniors
11 in particular on finance, insurance, or risk management.

12 (2) “Use” means utilizing a word, phrase, acronym, or logo, in
13 any oral or written communication from which a sale of insurance
14 to a senior may directly or indirectly result, that states or suggests,
15 alone or in context, that a broker or agent holds a senior
16 designation.

17 (b) (1) A broker or agent may not use a senior designation
18 unless all of the following conditions have been met:

19 (A) The broker or agent has been granted the right to use the
20 senior designation by the organization that issues the senior
21 designation, and the broker or agent is currently authorized by the
22 organization to use the designation.

23 (B) The senior designation has been approved by the
24 commissioner for use by brokers and agents in the sale of insurance
25 to seniors.

26 (C) The broker or agent has been licensed for at least four years
27 in any state or United States territory to sell the types of insurance
28 with which the designation is used.

29 (2) A broker or agent may not use a senior designation in a
30 manner that misleads a person as to the significance of the senior
31 designation. Each time a broker or agent uses a senior designation
32 in a writing, the writing shall also contain the words “California”
33 or “CA” next to “Insurance Agent” or “Insurance Broker Agent”
34 and “License,” and these words shall be located immediately prior
35 to the broker’s license number or the agent’s license number, in
36 type that is in the same font and at least the same size as the type
37 used for the senior designation. The requirements set forth in this
38 subdivision are in addition to the requirements of Section 1725.5
39 and shall apply regardless of whether the broker or agent is an
40 insurance agent, as defined in Section 1621. For purposes of this

1 paragraph, “writing” means business cards, written price
2 quotations, and print advertisements distributed exclusively in this
3 state.

4 (c) The commissioner shall approve a senior designation only
5 if the organization that issues the designation satisfies all of the
6 following requirements with respect to the designation:

7 (1) The organization has applied for approval on a form
8 prescribed by the commissioner.

9 (A) The department may require the filing of any supplementary
10 documents and declarations it deems necessary to determine
11 whether the prerequisites for approval have been met.

12 (B) Before or after approval, an organization shall notify the
13 department in writing within 45 days following any material change
14 in information recorded on the application form or in declarations
15 or documents submitted along with it or in response to a department
16 request.

17 (2) The designation is accredited by the National Commission
18 for Certifying Agencies, or the organization or the designation is
19 accredited by an agency that is on the United States Department
20 of Education’s list entitled “Accrediting Agencies Recognized for
21 Title IV Purposes” and it is established to the satisfaction of the
22 commissioner that the agency is qualified to accredit an
23 organization or designation involved with financial services
24 provided to seniors.

25 (3) The organization requires California candidates for the
26 designation to demonstrate superior expertise in advising seniors
27 in particular in finance, insurance, or risk management by passing
28 examinations that are based on applicants with no prior insurance
29 education or experience completing at least 75 hours of study
30 covering at least the following topics: aspects of aging, health care
31 coverage, long-term care insurance, financial planning for
32 retirement, investments, estate planning, and ethics. Textbooks or
33 other study materials may use chapter and subchapter titles that
34 differ from those general topics as long as the essential content is
35 the same. No part of the examinations, textbooks, or other study
36 materials may concern techniques on how to increase the amount
37 of insurance or financial products one sells, or recommend the
38 selling of products offered by specific companies.

39 (d) (1) In determining whether to approve a senior designation
40 for use in the sale of insurance to seniors, the commissioner shall

1 also ensure that the organization that issues the senior designation
2 fulfills the following:

3 (A) Is exclusively an educational or certification organization,
4 and is not directly or indirectly, through an affiliate or partner,
5 involved in selling insurance, nor receives any compensation
6 directly or indirectly from any sale of insurance, other than the
7 receipt of charitable gifts by a nonprofit institution.

8 (B) Maintains standards and procedures for disciplining its
9 designees for improper or unethical conduct, as established by
10 proven complaints or by disciplinary action by a government
11 licensing agency or a quasi-governmental licensing and regulatory
12 organization. The standards and procedures shall include, at a
13 minimum:

14 (i) A written procedure to receive, log, and conduct a preliminary
15 review of complaints alleging improper, illegal, or unethical
16 conduct.

17 (ii) Written standards for determining when a complaint warrants
18 further investigation into the merits of the allegations contained
19 therein.

20 (iii) Written standards and procedures to ensure that, once a
21 complaint is determined to warrant further investigation, the
22 investigation is diligently conducted.

23 (iv) Written standards for determining when to file disciplinary
24 charges based on the results of an investigation.

25 (v) Written standards and procedures to ensure due process in
26 the adjudication of disciplinary charges by adjudicators who are
27 fair, knowledgeable, and otherwise qualified.

28 (vi) Written standards and procedures for the imposition of
29 appropriate sanctions, including, when warranted, revocation of
30 the designation.

31 (C) Maintains a code of ethics for its California designees
32 consistent with that of one of the designations recited in Section
33 1749.4.

34 (e) (1) A word, phrase, acronym, or logo shall be deemed a
35 senior designation if it contains the word “senior,” “Medicare,”
36 “Medi-Cal,” “retire,” “mature,” “*entitlements*,” “gerontology,”
37 “elder,” or “veteran,” or any variation or synonym of one of these
38 words within several words of the word “certified,” “chartered,”
39 “registered,” “adviser,” “*expert*,” “specialist,” “consultant,”
40 “agent,” “broker,” “insurance,” “planner,” “professional,”

1 “enrolled,” “accredited,” “analyst,” or “fellow,” or any variation
2 or synonym of one of these words. A word, phrase, acronym, or
3 logo may constitute a senior designation if it meets the definition
4 in paragraph (1) of subdivision (a) regardless of whether it contains
5 one of the words recited in this subdivision.

6 (2) A word, phrase, acronym, or logo shall not constitute a senior
7 designation if it is a job title or description of an employee of a
8 governmental entity, or of an organization with a contract with
9 that governmental entity to provide free counseling to seniors.

10 (3) No exemption exists under this section for use of a senior
11 designation that constitutes a job title or description or part of a
12 job title or description, except as provided in paragraph (2).

13 (4) An advanced academic degree, such as a Ph.D., M.B.A., or
14 M.S., may be used without compliance with subdivision (d), if the
15 degree was awarded by an institution of higher education that has
16 been accredited by an organization that is on the United States
17 Department of Education’s list entitled “Accrediting Agencies
18 Recognized for Title IV Purposes.”

19 (f) A violation of subdivision (b) by a broker or agent shall be
20 grounds for suspension or revocation of the broker’s or agent’s
21 license pursuant to Sections 1668 and 1738. Such a violation also
22 shall be grounds for a cease and desist order and monetary penalty
23 pursuant to Section 12921.8, as if the broker or agent had acted in
24 a capacity for which a license was required but not possessed.

25 (g) Any person who grants to a California resident the right to
26 use a senior designation that has not been approved by the
27 commissioner, without reasonably attempting to determine whether
28 California is one of the designee’s residences, shall be subject to
29 a cease and desist order and monetary penalty pursuant to Section
30 12921.8, as if the person had acted in a capacity for which a license
31 was required but not possessed.

32 (h) The disciplinary and remedial authority recited in this
33 subdivision shall be in addition to any other disciplinary and
34 remedial authority included in this code.

35 (i) Notwithstanding any other provision of this code, the criteria
36 in Sections 1668 and 1668.5 apply to an organization that issues
37 a senior designation, and the commissioner may deny or rescind
38 approval of an organization issuing a senior designation based on
39 that criteria.

1 (j) The commissioner shall maintain a list of senior designations
2 approved pursuant to subdivisions (c), (d), and (e) and shall publish
3 the current list on the Internet Web site of the Department of
4 Insurance.

5 (k) This section shall apply to all types of insurance, including
6 those listed in paragraphs (1) and (2) of subdivision (c) of Section
7 785, except those listed in paragraphs (3) to (7), inclusive, and
8 paragraph (9) of subdivision (c) of Section 785 and subdivision
9 (d) of Section 785.

10 (l) The commissioner may, upon receipt of a petition from an
11 organization, issue written confirmation that a designation issued
12 by that organization is exempt from the requirement of approval
13 pursuant to this section. The commissioner may issue confirmation
14 if the designation, according to its title or curriculum, or in its
15 actual use, concerns almost exclusively subject matters other than
16 insurance or financial services sold to seniors in particular.

17 (m) (1) The commissioner may rescind approval of a
18 designation whenever there has been a material change in the
19 management or operation of the organization that issues the
20 designation, or in the procedures or criteria for issuance of the
21 designation, such that if the organization were to apply for approval
22 of the designation subsequent to the change, approval would be
23 denied.

24 (2) Any rescission of the approval of a designation shall be after
25 notice and a hearing conducted in accordance with Chapter 5
26 (commencing with Section 11500) of Part 1 of Division 3 of Title
27 2 of the Government Code, as if the approval were a license, and
28 the commissioner shall have all of the powers granted therein.

29 *SEC. 5. Section 789.10 of the Insurance Code is amended to*
30 *read:*

31 789.10. (a) This section applies to the sale, offering for sale,
32 or generation of leads for the sale of life insurance, including
33 annuities, to senior insureds or prospective insureds by any person.

34 (b) ~~Any~~ A person who meets with a senior in the senior's home
35 is required to deliver a notice in writing to the senior no less than
36 24 hours *and no more than 14 days* prior to that individual's initial
37 meeting in the senior's home. If the senior has an existing insurance
38 relationship with an agent and requests a meeting with the agent
39 in the senior's home the same day, a notice shall be delivered to
40 the senior prior to the meeting. The notice shall be ~~in-substantially~~

1 ~~the following form~~ *a stand alone document*, with the appropriate
 2 information inserted, ~~in 14-point type:~~ *and without any*
 3 *attachments. It shall be written in bold 16-point type and include*
 4 *all of the following, but no other, information:*
 5 ~~“(1) During this visit or a followup visit, you will be given a~~
 6 ~~sales presentation on the following [indicate all that apply]:~~
 7 (1) *The agent’s full name as it appears on his or her California*
 8 *insurance license.*
 9 (2) *The agent’s license number.*
 10 (3) *The agent’s mailing address and phone number listed on*
 11 *his or her California insurance license.*
 12 (4) *The following disclosure:*
 13 (A) *“I am a licensed insurance agent. My purpose for coming*
 14 *to your home is to sell, discuss, and/or deliver one of the following*
 15 *[indicate all that apply]:*
 16 () Life insurance, including annuities.
 17 () Other insurance products [specify]: _____.
 18 ~~(2)~~
 19 (B) *You have the right to have other persons present at the*
 20 *meeting, including family members, financial advisors, or*
 21 *attorneys.*
 22 ~~(3)~~
 23 (C) *You have the right to end the meeting at any time.*
 24 ~~(4)~~
 25 (D) *You have the right to contact the Department of Insurance*
 26 *for information, or to file a complaint. [The notice shall include*
 27 *the consumer assistance telephone numbers at the department]*
 28 ~~(5)~~
 29 (E) *The following individuals will be coming to your home:*
 30 *[list all attendees, and insurance license information, if applicable]”*
 31 (c) *Upon contacting the senior in the senior’s home, the person*
 32 *shall, before making any statement other than a greeting, or asking*
 33 *the senior any other questions, state that the purpose of the contact*
 34 *is to talk about insurance, or to gather information for a followup*
 35 *visit to sell insurance, if that is the case, and state all of the*
 36 *following information:*
 37 (1) *The name and titles of all persons arriving at the senior’s*
 38 *home.*
 39 (2) *The name of the insurer represented by the person, if known.*

1 (d) Each person attending a meeting with a senior shall provide
2 the senior with a business card or other written identification stating
3 the person's name, business address, telephone number, and any
4 insurance license number.

5 (e) The persons attending a meeting with a senior shall end all
6 discussions and leave the home of the senior immediately after
7 being asked to leave by the senior.

8 (f) A person may not solicit a sale or order for the sale of an
9 annuity or life insurance policy at the residence of a senior, in
10 person or by telephone, by using any plan, scheme, or ruse that
11 misrepresents the true status or mission of the contact.

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