

AMENDED IN ASSEMBLY APRIL 11, 2013

AMENDED IN ASSEMBLY APRIL 3, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1391

Introduced by Committee on Insurance

March 4, 2013

An act to amend Sections 662, 739, 739.3, 985, 1011, 1011.1, 1012, 1016, 1070.6, 1624, 1675, 1749.8, 1758.3, 1872.87, and 14090.1 of, and to repeal Section 668.5 of, the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1391, as amended, Committee on Insurance. Insurance: omnibus.

(1) Existing law provides that no cancellation of a motor vehicle insurance policy, not subject to certain cancellation protections because it has been in effect less than 60 days, is effective unless a notice of cancellation, subject to certain notice provisions, is mailed or delivered by the insurer to the named insured not later than the 59th day following the effective date and at least 10 days prior to the effective date of cancellation. Existing law also provides no notice of cancellation of a motor vehicle insurance policy, where the cancellation is based on, among other things, nonpayment of premium, is effective unless mailed or delivered by the insurer to the named insured, lienholder, or additional interest at least 20 days prior to the effective date of cancellation, except as specified.

This bill would delete the requirements for cancellation of a motor vehicle insurance policy less than 60 days old, and would apply the requirements regarding notice of cancellation for nonpayment of premiums, and other specified reasons, to all cancellation circumstances.

(2) Existing law defines the term “Adjusted RBC Report” as a Risk-Based Capital (RBC) report that has been adjusted by the Insurance Commissioner in accordance with specified provisions governing the determination of a property and casualty insurer’s RBC.

This bill would revise that definition to also include an RBC report that has been adjusted by the commissioner in accordance with specified provisions governing the determination of a life or health insurer’s RBC.

(2)

(3) Existing law requires every life agent who sells annuities to satisfactorily complete 8 hours of training prior to soliciting individual consumers, and requires every life agent who sells annuities to satisfactorily complete 4 hours of training prior to each license renewal.

This bill would clarify the completion of an 8-hour training requirement to initially procure a license to sell annuities does not satisfy the requirement to complete a 4-hour training course in order to renew the annuity license.

(3)

(4) Existing law prohibits the Insurance Commissioner from granting authority to transact variable contracts unless the life agent or applicant furnishes proof that he or she is registered to sell securities in accordance with the rules of the United States Securities and Exchange Commission or the Financial Industry Regulatory Authority.

This bill would make clear that the life agent or applicant is required furnish proof that he or she is registered to sell securities in California in accordance with the rules of the United States Securities and Exchange Commission or the Financial Industry Regulatory Authority.

(4)

(5) Existing law requires an individual holding an insurance adjuster license, not otherwise exempt, to complete a minimum of 24 hours of continuing education courses, as specified.

This bill would authorize an exemption from the continuing education requirements for an individual licensed as an insurance adjuster and as a property or casualty broker-agent who has met other specified continuing education requirements.

(5)

(6) Existing law defines an insurance solicitor as a natural person employed to aid an insurance agent or insurance broker in transacting insurance other than life.

This bill would redefine an insurance solicitor to mean a natural person employed to aid a property and casualty broker-agent acting as an insurance agent or insurance broker in transacting insurance other than life, disability, or health.

(6)

(7) Existing law provides that a nonresident licensee who applies for a property broker-agent, casualty broker-agent, personal lines broker-agent, or life agent resident license in this state, and who is currently licensed for the same lines of authority in the state of his or her current resident license, is not required to complete an examination. The application for examination is required to be received within 90 days of the cancellation of the applicant’s resident license and the producer database records, maintained by the National Association of Insurance Commissioners, are required to indicate that the producer is licensed in good standing for the line of authority requested.

This bill would provide that upon issuance of the California resident license, the examination waiver also applies to adding additional lines of authority to the California resident license provided that the individual was previously licensed in good standing for the requested additional lines of authority, and the application is received within 12 months of the cancellation of the applicant’s previous resident license in another state.

(7)

(8) This bill would make technical, conforming, and clarifying 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 662 of the Insurance Code is amended
2 to read:
3 662. (a) A notice of cancellation of a policy shall not be
4 effective unless mailed or delivered by the insurer to the named
5 insured, lienholder, or additional interest at least 20 days prior to
6 the effective date of cancellation; provided, however, that where
7 cancellation is for nonpayment of premium, at least 10 days’ notice
8 of cancellation accompanied by the reason for the cancellation
9 shall be given. Unless the reason accompanies or is included in
10 the notice of cancellation, the notice of cancellation shall state or

1 be accompanied by a statement that upon written request of the
2 named insured, mailed or delivered to the insurer not less than 15
3 days prior to the effective date of cancellation, the insurer will
4 specify the reason for the cancellation.

5 (b) This section shall not apply to nonrenewal.

6 (c) Notices made to lienholders pursuant to this section may be
7 done electronically with the consent of the lienholder.

8 SEC. 2. Section 668.5 of the Insurance Code is repealed.

9 SEC. 3. Section 739 of the Insurance Code is amended to read:

10 739. As used in this article, these terms shall have the following
11 meanings:

12 (a) “Adjusted RBC Report” means a Risk-Based Capital (RBC)
13 report that has been adjusted by the commissioner in accordance
14 with subdivision (b) or (c) of Section 739.2.

15 (b) “Corrective Order” means an order issued by the
16 commissioner specifying corrective actions that the commissioner
17 has determined are required.

18 (c) “Domestic insurer” means any life or health insurer or
19 property and casualty insurer organized in this state.

20 (d) “Foreign insurer” means any life or health insurer or property
21 and casualty insurer that is licensed to do business in this state but
22 is not domiciled in this state.

23 (e) “Life or health insurer” means any admitted insurer issuing
24 insurance subject to Part 2 (commencing with Section 10110) of
25 Division 2, or a licensed property and casualty insurer writing only
26 disability insurance.

27 (f) “NAIC” means the National Association of Insurance
28 Commissioners.

29 (g) “Negative trend” means, with respect to a life or health
30 insurer, a negative trend over a period of time, as determined in
31 accordance with the “Trend Test Calculation” included in the RBC
32 Instructions defined in subdivision (i).

33 (h) “Property and casualty insurer” means any admitted insurer
34 writing insurance as described in Section 102, 103, 105, 107, 108,
35 109, 110, 111, 112, 113, 114, 115, 116, 118, 119.5, 119.6, or 120,
36 but does not include monoline mortgage guaranty insurers,
37 financial guaranty insurers, or title insurers.

38 (i) “RBC Instructions” means the RBC Report, including
39 risk-based capital instructions adopted by the NAIC, and as the

1 RBC Instructions may be amended by the NAIC from time to time
2 in accordance with the procedures adopted by the NAIC.

3 (j) “RBC Level” means an insurer’s Company Action Level
4 RBC, Regulatory Action Level RBC, Authorized Control Level
5 RBC, or Mandatory Control Level RBC where:

6 (1) “Company Action Level RBC” means, with respect to any
7 insurer, the product of 2.0 and its Authorized Control Level RBC.

8 (2) “Regulatory Action Level RBC” means the product of 1.5
9 and its Authorized Control Level RBC.

10 (3) “Authorized Control Level RBC” means the number
11 determined under the risk-based capital formula in accordance
12 with the RBC Instructions.

13 (4) “Mandatory Control Level RBC” means the product of .70
14 and the Authorized Control Level RBC.

15 (k) “RBC Plan” means a comprehensive financial plan
16 containing the elements specified in subdivision (b) of Section
17 739.3. If the commissioner rejects the RBC Plan, and it is revised
18 by the insurer, with or without the commissioner’s
19 recommendation, the plan shall be called the “Revised RBC Plan.”

20 (l) “RBC Report” means the report required in Section 739.2.

21 (m) “Total Adjusted Capital” means the sum of:

22 (1) An insurer’s statutory capital and surplus.

23 (2) Other items, if any, that the RBC Instructions may provide.

24 ~~SEC. 3.~~

25 *SEC. 4.* Section 739.3 of the Insurance Code is amended to
26 read:

27 739.3. (a) “Company Action Level Event” means any of the
28 following events:

29 (1) The filing of an RBC Report by an insurer that indicates any
30 of the following:

31 (A) The insurer’s Total Adjusted Capital is greater than or equal
32 to its Regulatory Action Level RBC but less than its Company
33 Action Level RBC.

34 (B) If a life or health insurer, the insurer has Total Adjusted
35 Capital that is greater than or equal to its Company Action Level
36 RBC but less than the product of its Authorized Control Level
37 RBC and 2.5, and has a negative trend.

38 (C) If a property and casualty insurer, the insurer has Total
39 Adjusted Capital that is greater than or equal to its Company Action
40 Level RBC but less than the product of its Authorized Control

1 Level RBC and 3.0, and triggers the trend test determined in
 2 accordance with the trend test calculation included in the Property
 3 and Casualty RBC instructions.

4 (2) The notification by the commissioner to the insurer of an
 5 Adjusted RBC Report that indicates the event in paragraph (1),
 6 provided that the insurer does not challenge the Adjusted RBC
 7 Report under Section 739.7.

8 (3) If the insurer challenges, under Section 739.7, an Adjusted
 9 RBC Report that indicates the event in paragraph (1), the
 10 notification by the commissioner to the insurer that the
 11 commissioner has, after a hearing, rejected the insurer’s challenge.

12 (b) In the event of a Company Action Level Event, the insurer
 13 shall prepare and submit to the commissioner a comprehensive
 14 financial plan that shall do all of the following:

15 (1) Identify the conditions in the insurer that contribute to the
 16 Company Action Level Event.

17 (2) Contain proposals of corrective actions that the insurer
 18 intends to take and would be expected to result in the elimination
 19 of the Company Action Level Event.

20 (3) Provide projections of the insurer’s financial results in the
 21 current year and at least the four succeeding years, both in the
 22 absence of proposed corrective actions and giving effect to the
 23 proposed corrective actions, including projections of statutory
 24 operating income, net income, capital, or surplus, or a combination.
 25 The projections for both new and renewal business may include
 26 separate projections for each major line of business and separately
 27 identify each significant income, expense, and benefit component.

28 (4) Identify the key assumptions impacting the insurer’s
 29 projections and the sensitivity of the projections to the assumptions.

30 (5) Identify the quality of, and problems associated with, the
 31 insurer’s business, including, but not limited to, its assets,
 32 anticipated business growth and associated surplus strain,
 33 extraordinary exposure to risk, mix of business, and use of
 34 reinsurance in each case, if any.

35 (c) The RBC Plan shall be submitted as follows:

36 (1) Within 45 days of the Company Action Level Event.

37 (2) If the insurer challenges an Adjusted RBC Report pursuant
 38 to Section 739.7, within 45 days after notification to the insurer
 39 that the commissioner has, after a hearing, rejected the insurer’s
 40 challenge.

1 (d) Within 60 days after the submission by an insurer of an RBC
2 Plan to the commissioner, the commissioner shall notify the insurer
3 whether the RBC Plan shall be implemented or is, in the judgment
4 of the commissioner, unsatisfactory. If the commissioner
5 determines that the RBC Plan is unsatisfactory, the notification to
6 the insurer shall set forth the reasons for the determination, and
7 may set forth proposed revisions that will render the RBC Plan
8 satisfactory, in the judgment of the commissioner. Upon
9 notification from the commissioner, the insurer shall prepare a
10 Revised RBC Plan, which may incorporate by reference revisions
11 proposed by the commissioner, and shall submit the Revised RBC
12 Plan to the commissioner as follows:

13 (1) Within 45 days after the notification from the commissioner.

14 (2) If the insurer challenges the notification from the
15 commissioner under Section 739.7, within 45 days after a
16 notification to the insurer that the commissioner has, after a
17 hearing, rejected the insurer's challenge.

18 (e) In the event of a notification by the commissioner to an
19 insurer that the insurer's RBC Plan or Revised RBC Plan is
20 unsatisfactory, the commissioner may, at his or her discretion,
21 subject to the insurer's right to a hearing under Section 739.7,
22 specify in the notification that the notification constitutes a
23 Regulatory Action Level Event.

24 (f) Every domestic insurer that files an RBC Plan or Revised
25 RBC Plan with the commissioner shall file a copy of the RBC Plan
26 or Revised RBC Plan with the insurance commissioner in any state
27 in which the insurer is authorized to do business if both of the
28 following apply:

29 (1) That state has an RBC provision substantially similar to
30 subdivision (a) of Section 739.8.

31 (2) The insurance commissioner of that state has notified the
32 insurer of its request for the filing in writing, in which case the
33 insurer shall file a copy of the RBC Plan or Revised RBC Plan in
34 that state no later than the later of:

35 (A) Fifteen days after the receipt of notice to file a copy of its
36 RBC Plan or Revised RBC Plan with the state.

37 (B) The date on which the RBC Plan or Revised RBC Plan is
38 filed under subdivision (c) of Section 739.7.

39 ~~SEC. 4.~~

40 *SEC. 5.* Section 985 of the Insurance Code is amended to read:

1 985. (a) On or after January 1, 1970, as used in this article and
2 in subdivision (i) of Section 1011, “insolvency” means either of
3 the following:
4 (1) Any impairment of minimum “paid-in capital” or “capital
5 paid in,” as defined in Section 36, required in the aggregate of an
6 insurer by the provisions of this code for the class, or classes, of
7 insurance that it transacts anywhere.
8 (2) An inability of the insurer to meet its financial obligations
9 when they are due.
10 (b) On or after January 1, 1970, an insurer cannot escape the
11 condition of insolvency by being able to provide for all its liabilities
12 and for reinsurance of all outstanding risks. An insurer must also
13 be possessed of additional assets equivalent to the aggregate
14 “paid-in capital” or “capital paid in” required by this code after
15 making provision for all those liabilities and for that reinsurance.
16 (c) On or after October 1, 1967, as used in this code provision
17 for reinsurance of all outstanding risks and “gross premiums
18 without any deduction, received and receivable upon all unexpired
19 risks” means the greater of: (1) the aggregate amount of actual
20 unearned premiums, or (2) the amount reasonably estimated as
21 being required to reinsure in a solvent admitted insurer the
22 unexpired terms of the risks represented by all outstanding policies.
23 (d) On or after October 1, 1967, an insurer shall make provision
24 for reinsurance of the outstanding risk on policies that provide
25 premiums that are fully earned at inception and on policies that
26 for any other reason do not provide for a return premium to the
27 insured on cancellation prior to expiration.
28 (e) On or after October 1, 1967, the commissioner shall prescribe
29 standards for reasonably estimating the amount required to reinsure
30 that will provide adequate safeguards for the policyholders,
31 creditors, and the public.
32 (f) On or after October 1, 1967, this section shall not be
33 applicable to life, title, mortgage, or mortgage guaranty insurers.
34 (g) In the application of this section to disability insurance, as
35 defined in Section 106, reserves for unearned premiums and
36 amounts reasonably estimated as required to reinsure outstanding
37 risks shall be determined in accordance with the provisions of
38 Section 997.

1 ~~SEC. 5.~~

2 *SEC. 6.* Section 1011 of the Insurance Code is amended to
3 read:

4 1011. The superior court of the county in which the principal
5 office of a person described in Section 1010 is located, upon the
6 filing by the commissioner of the verified application showing any
7 of the conditions in this subdivision exist, or a filing by the Federal
8 Deposit Insurance Corporation of the verified application showing
9 that the conditions enumerated in subdivision (j) exist and the
10 conditions set forth in Section 5383(e)(3) of Title 12 of the United
11 States Code having been satisfied, shall issue its order vesting title
12 to all of the assets of that person, wheresoever situated, in the
13 commissioner or his or her successor in office, in his or her official
14 capacity, and direct the commissioner forthwith to take possession
15 of all of its books, records, property, real and personal, and assets,
16 and to conduct, as conservator, the business of the person, or so
17 much thereof as to the commissioner may seem appropriate, and
18 enjoining the person and its officers, directors, agents, servants,
19 and employees from the transaction of its business or disposition
20 of its property until any of the following further order of the court:

21 (a) That the person has refused to submit its books, papers,
22 accounts, or affairs to the reasonable inspection of the
23 commissioner or his or her deputy or examiner.

24 (b) That the person has neglected or refused to observe an order
25 of the commissioner to make good within the time prescribed by
26 law any deficiency in its capital if it is a stock corporation, or in
27 its reserve if it is a mutual insurer.

28 (c) That the person, without first obtaining the consent in writing
29 of the commissioner, has transferred, or attempted to transfer,
30 substantially its entire property or business or, without consent,
31 has entered into any transaction the effect of which is to merge,
32 consolidate, or reinsure substantially its entire property or business
33 in or with the property or business of any other person.

34 (d) That the person is found, after an examination, to be in a
35 condition that makes its further transaction of business will be
36 hazardous to its policyholders, or creditors, or to the public.

37 (e) That the person has violated its charter or any law of the
38 state.

39 (f) That any officer of the person refuses to be examined under
40 oath, touching its affairs.

1 (g) That any officer or attorney in fact of the person has
2 embezzled, sequestered, or wrongfully diverted any of the assets
3 of the person.

4 (h) That a domestic insurer does not comply with the
5 requirements for the issuance to it of a certificate of authority, or
6 that its certificate of authority has been revoked.

7 (i) That the last report of examination of any person to whom
8 the provisions of this article apply shows the person to be insolvent
9 within the meaning of Article 13 (commencing with Section 980)
10 of Chapter 1 of Part 2 of Division 1; or if a reciprocal or
11 interinsurance exchange, within the applicable provisions of
12 Section 1370.2, 1370.4, 1371, or 1372; or if a life insurer, within
13 the applicable provisions of Sections 10510 and 10511.

14 (j) Notification is given by the United States Secretary of the
15 Treasury that a determination has been made by the secretary, in
16 accordance with and satisfying the provisions of Section 5383(b)
17 of Title 12 of the United States Code, as to a person described in
18 Section 1010 that is an insurance company as defined in Section
19 5381(a)(13) of Title 12 of the United States Code, and one of the
20 following:

21 (1) The board of directors, or body performing similar functions,
22 of the person acquiesces or consents to the appointment of a
23 receiver as provided for in Section 5832(a)(1)(A)(i) of Title 12 of
24 the United States Code, with that consent to be considered to be
25 consent to issuance of an order under this section.

26 (2) The United States District Court for the District of Columbia
27 issued an order for the appointment of a receiver of the person as
28 provided for in Section 5382(a)(1)(A)(iv)(I) of Title 12 of the
29 United States Code, without regard to whether an appeal of the
30 order is pending.

31 (3) A petition by the United States Secretary of the Treasury
32 for appointment of a receiver was made to the United States District
33 Court for the District of Columbia and was granted by operation
34 of the law as provided for in Section 5382(a)(1)(A)(v) of Title 12
35 of the United States Code, without regard to whether an appeal of
36 the order is pending.

37 ~~SEC. 6.~~

38 *SEC. 7.* Section 1011.1 of the Insurance Code is amended to
39 read:

1 1011.1. If a verified application is filed pursuant to Section
2 1011 that shows that the conditions set forth in subdivision (j) of
3 Section 1011 exist and upon a showing that notice was provided
4 to the person that is the subject of the verification application, all
5 of the following apply:

6 (a) A superior court hearing shall be held in which the person
7 may oppose the verified application solely on the grounds that the
8 conditions set forth in subdivision (j) of Section 1101 do not exist.
9 The hearing shall be completed within 24 hours after the verified
10 application is filed with the court.

11 (b) The superior court shall issue an order as provided for in
12 Section 1011 within 24-hours after the verified application was
13 filed with the court.

14 (c) If the superior court does not issue an order within 24 hours
15 as provided for in subdivision (b), then an order described in
16 Section 1011 shall be deemed granted by operation of law upon
17 expiration of the 24-hour period, without further notice.

18 (d) An order entered by the superior court pursuant to
19 subdivision (b) or entered by operation of law pursuant to
20 subdivision (c) shall not be subject to any stay or injunction
21 pending appeal.

22 ~~SEC. 7.~~

23 *SEC. 8.* Section 1012 of the Insurance Code is amended to
24 read:

25 1012. Except in the case of an order issued based on a verified
26 application showing the conditions in subdivision (j) of Section
27 1011 to exist, the order shall continue in force and effect until, on
28 the application either of the commissioner or of that person, it
29 shall, after a full hearing, appear to the court that the ground for
30 the order directing the commissioner to take title and possession
31 does not exist or has been removed and that the person can properly
32 resume title and possession of its property and the conduct of its
33 business.

34 ~~SEC. 8.~~

35 *SEC. 9.* Section 1016 of the Insurance Code is amended to
36 read:

37 1016. (a) If at any time after the issuance of an order under
38 Section 1011, or if at the time of instituting any proceeding under
39 this article, including under Section 1011, it shall appear to the
40 commissioner that it would be futile to proceed as conservator

1 with the conduct of the business of that person, he or she may
2 apply to the court for an order to liquidate and wind up the business
3 of the person. Upon a full hearing of that application, the court
4 may make an order directing the winding up and liquidation of the
5 business of that person by the commissioner, as liquidator, for the
6 purpose of carrying out the order to liquidate and wind up the
7 business of that person.

8 (b) Notwithstanding subdivision (a), the court may issue an
9 order to liquidate and wind up the business of a person as to whom
10 a verified application is filed pursuant to subdivision (j) of Section
11 1011 based solely on the verified application and hearing as
12 provided for in subdivision (a) of Section 1011.1, without further
13 hearing, or may issue an order to liquidate and wind up the business
14 of the person upon application by the commissioner after the
15 issuance of an order under Section 1011. The court's order may
16 direct the winding up and liquidation of the business of the person
17 by the commissioner, as liquidator, for the purpose of carrying out
18 the order to liquidate and wind up the business of the person.

19 ~~SEC. 9.~~

20 *SEC. 10.* Section 1070.6 of the Insurance Code is amended to
21 read:

22 1070.6. The withdrawal procedure and fees prescribed by this
23 article shall not be required of a nonsurviving admitted constituent
24 to a merger or consolidation into another admitted insurer in
25 accordance with the applicable statutes and the commissioner's
26 prior written consent given pursuant to subdivision (c) of Section
27 1011, provided the commissioner is satisfied by documents,
28 authenticated so as to be admissible in evidence over objection,
29 filed with him or her, that:

30 (a) The constituent has discharged all of its liabilities to residents
31 of this state in the manner provided by Section 1071.5;

32 (b) There will be an admitted insurer directly available to the
33 constituent's policyholders: (1) to obtain policy changes and
34 endorsements, (2) to receive payment of premiums and refund
35 unearned premiums, (3) to serve notice of claim, proof of loss,
36 summons, process, and other papers, and (4) for purposes of suit;

37 (c) The constituent shall timely file with the commissioner
38 appropriate financial statements reporting its insurance business
39 done in this state during the calendar year of the merger or
40 consolidation and all appropriate tax returns required by law for

1 the period, and shall timely pay all taxes found to be due on account
2 of the business; and

3 (d) The constituent has surrendered its current California
4 certificate of authority to the commissioner for cancellation as of
5 the effective date of the merger.

6 The withdrawal procedure and fees prescribed by this article
7 shall not be required of an insurer that has been liquidated by a
8 final order of a court of record of this or any sister state provided
9 a certified copy of the order reciting the fact of liquidation and
10 discharge of all obligations has been filed with the commissioner.

11 ~~SEC. 10.~~

12 *SEC. 11.* Section 1624 of the Insurance Code is amended to
13 read:

14 1624. “Insurance solicitor” means a natural person employed
15 to aid a property and casualty broker-agent acting as an insurance
16 agent or insurance broker in transacting insurance other than life,
17 disability, or health.

18 ~~SEC. 11.~~

19 *SEC. 12.* Section 1675 of the Insurance Code is amended to
20 read:

21 1675. The following applicants who have theretofore been
22 licensed under this code are exempt from the requirements of this
23 article:

24 (a) An applicant for a license to act as a property broker-agent
25 or a casualty broker-agent who has been licensed as a property
26 broker-agent, casualty broker-agent, or surplus line broker during
27 any part of the license year in which the application is filed or the
28 immediately preceding license year.

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

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

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

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

1 (f) (1) A nonresident licensee who applies for a property
 2 broker-agent, casualty broker-agent, personal lines broker-agent,
 3 or life agent resident license in this state, and who is currently
 4 licensed for the same lines of authority in the state of his or her
 5 current resident license, shall not be required to complete an
 6 examination. The application shall be received within 90 days of
 7 the cancellation of the applicant’s resident license and the producer
 8 database records, maintained by the National Association of
 9 Insurance Commissioners, shall indicate that the producer is
 10 licensed in good standing for the line of authority requested.

11 (2) Upon issuance of the California resident license, the
 12 examination waiver also applies to adding additional lines of
 13 authority to the California resident license provided that the
 14 individual was previously licensed in good standing for the
 15 requested additional lines of authority, and the application is
 16 received within 12 months of the cancellation of the applicant’s
 17 previous resident license in another state.

18 ~~SEC. 12.~~

19 *SEC. 13.* Section 1749.8 of the Insurance Code is amended to
 20 read:

21 1749.8. (a) Every life agent who sells annuities shall
 22 satisfactorily complete eight hours of training prior to soliciting
 23 individual consumers in order to sell annuities.

24 (b) Every life agent who sells annuities shall satisfactorily
 25 complete four hours of training prior to each license renewal.
 26 Completion of the eight-hour annuity training required by
 27 subdivision (a) does not satisfy the four-hour annuity training
 28 required by this subdivision. For resident licensees, this
 29 requirement shall count toward the licensee’s continuing education
 30 requirement, but may still result in completing more than the
 31 minimum number of continuing education hours set forth in this
 32 section.

33 (c) The training required by this section shall be approved by
 34 the commissioner and shall consist of topics related to annuities,
 35 and California law, regulations, and requirements related to
 36 annuities, prohibited sales practices, the recognition of indicators
 37 that a prospective insured may lack the short-term memory or
 38 judgment to knowingly purchase an insurance product, and
 39 fraudulent and unfair trade practices. Subject matter determined
 40 by the commissioner to be primarily intended to promote the sale

1 or marketing of annuities shall not qualify for credit towards the
2 training requirement. Any course or seminar that is disapproved
3 under the provisions of this section shall be presumed invalid for
4 credit towards the training requirement of this section unless it is
5 approved in writing by the commissioner.

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

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

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

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

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

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

20 ~~SEC. 13.~~

21 *SEC. 14.* Section 1758.3 of the Insurance Code is amended to
22 read:

23 1758.3. The commissioner shall not grant authority to transact
24 variable contracts unless the life agent or applicant furnishes proof
25 that he or she is registered to sell securities in California in
26 accordance with the rules of the United States Securities and
27 Exchange Commission or the Financial Industry Regulatory
28 Authority. Any authority granted to a life agent to transact variable
29 contracts shall immediately terminate upon the life agent no longer
30 being registered to sell securities in accordance with the rules of
31 the United States Securities and Exchange Commission or the
32 Financial Industry Regulatory Authority.

33 ~~SEC. 14.~~

34 *SEC. 15.* Section 1872.87 of the Insurance Code is amended
35 to read:

36 1872.87. (a) Each insurer required to pay special purpose
37 assessments pursuant to Sections 1872.8, 1872.81, 1872.85, 1874.8,
38 or subdivision (a) of Section 1872.86 may, over a reasonable length
39 of time, but in no event later than the calendar year in which the
40 assessment is paid, recoup the special purpose assessments by way

1 of a surcharge on premiums charged for the insurance policies to
2 which those sections apply or by including the assessments within
3 the insurer’s rates. Amounts recouped shall not be considered
4 premiums for any purpose, including the computation of gross
5 premium tax or agents’ commission.

6 (b) The amount of the surcharge shall be separately stated on
7 either a billing or policy declaration sent to an insured.

8 ~~SEC. 15.~~

9 *SEC. 16.* Section 14090.1 of the Insurance Code is amended
10 to read:

11 14090.1. (a) An individual who holds an insurance adjuster
12 license and who is not exempt under subdivision (b) shall
13 satisfactorily complete a minimum of 24 hours, of which three
14 hours are to be in ethics, of continuing education courses pertinent
15 to the duties and responsibilities of an insurance adjuster license
16 reported to the insurance commissioner on a biennial basis in
17 conjunction with his or her license renewal cycle.

18 (b) This section does not apply to any of the following:

19 (1) A licensee not licensed for one full year prior to the end of
20 the applicable continuing education biennium.

21 (2) A licensee holding a nonresident insurance adjuster license
22 who has met the continuing education requirements of his or her
23 designated resident state.

24 (3) An individual licensed as an insurance adjuster and as a
25 property or casualty broker-agent, pursuant to Section 1625, who
26 has met the continuing education requirements specified in Section
27 1749.3.