

Assembly Bill No. 2734

Passed the Assembly August 22, 2014

Chief Clerk of the Assembly

Passed the Senate August 21, 2014

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 922.4, 922.41, 927.2, 1775.1, 10505.1, and 11628 of the Insurance Code, to amend Sections 12251 and 12260 of the Revenue and Taxation Code, and to amend Section 38750 of the Vehicle Code, relating to insurance.

LEGISLATIVE COUNSEL’S DIGEST

AB 2734, Committee on Insurance. Insurance: omnibus.

(1) Existing law requires every surplus line broker whose annual tax for the preceding calendar year was \$5,000 or more to make monthly installment payments on account of the annual tax on business done during the calendar year, and authorizes the Insurance Commissioner to relieve a surplus line broker of his or her obligations to make monthly payments if the broker establishes to the commissioner’s satisfaction that he or she has ceased to transact business in the state, or his or her annual tax for the current year will be less than \$5,000.

This bill would raise the threshold for making monthly installment payments to \$20,000 or more in annual tax for the preceding calendar year, and would authorize the commissioner to relieve a surplus line broker of his or her obligations to make monthly payments if his or her annual tax for the current year would be less than \$20,000.

(2) Existing law exempts nonprofit cooperative assessment associations, whose membership and insurance are restricted to members of a labor union, from provisions relating to the supervision or regulation of insurance with respect to the provision of job protection benefits to their members. Existing law also prohibits these associations from being a member of the California Insurance Guarantee Association for the purpose of providing insolvency insurance to each member.

This bill would provide that the job protection benefits may include accidental death benefits. The bill would prohibit these associations from being a member of any insurance guaranty association in this state and would require each policy issued in this state pursuant to these provisions to contain a specified notice.

(3) Existing law prohibits, among other things, an admitted insurer that is licensed to issue and is issuing motor vehicle liability policies from failing or refusing to accept an application for that insurance, failing or refusing to issue that insurance to the applicant, or from issuing or canceling that insurance under conditions less favorable to the insured than in other comparable cases because of specified reasons, including, but not limited to, discrimination between persons within the same geographic area. Existing law prohibits the admitted motor vehicle liability insurer from using specified characteristics, including, but not limited to, location within a geographic area, in and of itself, as a condition or risk for which a higher rate, premium, or charge is required of the insured for that insurance. Existing law also requires an admitted insurer, licensed to issue and issuing motor vehicle liability policies, motor vehicle physical damage policies, or both, to submit annually to the commissioner a record of loss experience, as specified, for the geographic area, as defined, including statistical data by ZIP Code area. An insurer may satisfy its obligation to report statistical data by providing its loss experience data and statewide expense ratio and combined ratio on its assigned-risk business to a rating or advisory organization for submission to the commissioner. This data is required to be made public by the commissioner annually after examination.

This bill would instead require an insured to submit the record of loss experience for the geographic area biennially. The bill would also require statewide summary data to be submitted to the commissioner annually. The bill would also require that the reported data be made available to the public biennially.

(4) Existing law requires insurers transacting insurance in this state whose annual tax for the preceding calendar year was \$5,000 or more to make prepayments of the annual tax for the current calendar year, except as provided. The commissioner is authorized to relieve an insurer of its obligations to make prepayments if the insurer establishes to the commissioner's satisfaction that the insurer has ceased to transact business in the state, or the insurer's annual tax for the current year will be less than \$5,000.

This bill would raise the threshold for making tax prepayments to \$20,000 or more in annual tax for the preceding calendar year, and would authorize the commissioner to relieve an insurer of its

obligations to make prepayments if the insurer's annual tax for the current year would be less than \$20,000.

(5) Existing law requires every insurer doing business in this state to make and file with the Insurance Commissioner financial statements exhibiting its condition and affairs as of the previous year.

Existing law requires credit for reinsurance be allowed for a domestic ceding insurer as either an asset or a deduction from liability on account of reinsurance ceded only when the reinsurer meets specified requirements, including, but not limited to, when the reinsurance is ceded to an assuming insurer that maintains a trust fund in a qualified United States financial institution, as defined, for the payment of the valid claims of its United States ceding insurers, their assigns, and successors in interest. Existing law requires that at any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least 3 full years, the commissioner may authorize a reduction in the required trustee surplus, as provided, and the minimum required trustee surplus may not be reduced to an amount less than 50% of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust.

This bill would authorize the trustee surplus to be reduced to not less than 30% of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust if the commissioner expressly finds that appropriate circumstances justify a lower level of minimum required trustee surplus.

Existing law requires that credit be allowed for a domestic insurer when the reinsurance is ceded to an assuming insurer that has been certified by the commissioner as a reinsurer in this state and secures its obligations in accordance with certain requirements. The commissioner is required to post a notice on the department's Internet Web site promptly upon receipt of any application for certification, including instructions on how members of the public may respond to the application, and the commissioner is prohibited from taking final action on the application until at least 90 days after posting the required notice.

This bill would reduce the period during which the commissioner is prohibited from taking final action on the application to 30 days after posting the required notice.

(6) Existing law, except as provided, prohibits an autonomous vehicle, as defined, from being operated on public roads until the manufacturer submits an application to the Department of Motor Vehicles, and that application is approved by the department. The application is required to contain, at a minimum, specified certifications, including, but not limited to, a certification that the manufacturer will maintain a surety bond or proof of self-insurance in an amount of \$5,000,000.

This bill would provide that the \$5,000,000 in coverage may also be in the form of an instrument of insurance.

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

SECTION 1. Section 922.4 of the Insurance Code is amended to read:

922.4. Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a deduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of subdivision (a), (b), (c), (d), or (e). Credit shall be allowed under subdivision (a), (b), or (c) only for cessions of those kinds or classes of business that the assuming insurer is licensed or otherwise permitted to write or assume in its state of domicile or, in the case of a United States branch of an alien assuming insurer, in the state through which it is entered and licensed to transact insurance or reinsurance.

(a) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is licensed to transact insurance or reinsurance in this state unless the assuming insurer is the subject of a regulatory order or regulatory oversight by any state in which it is licensed based upon a commissioner's determination that the assuming insurer is in a hazardous financial condition.

(b) (1) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is accredited as a reinsurer in this state unless the assuming insurer is the subject of a regulatory order or regulatory oversight by any state in which it is licensed based upon a commissioner's determination that the assuming insurer is in a

hazardous financial condition. An accredited reinsurer is one that does all of the following:

(A) Files with the commissioner evidence of its submission to this state's jurisdiction.

(B) Submits to this state's authority to examine its books and records.

(C) Designates the commissioner or a designated attorney in this state as its true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding insurer.

(D) Is licensed to transact insurance or reinsurance in at least one state, or in the case of a United States branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one state.

(E) Files annually with the commissioner a copy of its annual statement filed with the insurance department of its state of domicile and a copy of its most recent audited financial statement and other financial information requested by the commissioner.

(F) Submits a statement, signed and verified by an officer of the assuming insurer to be true and correct, that discloses whether the assuming insurer or any affiliated person who owns or has a controlling interest in the assuming insurer is currently known to be the subject of any of the following:

(i) Any order or proceeding regarding conservation, liquidation, or receivership.

(ii) Any order or proceeding regarding the revocation or suspension of a license or accreditation to transact insurance or reinsurance in any jurisdiction.

(iii) Any order or proceeding brought by an insurance regulator in any jurisdiction seeking to restrict or stop the assuming insurer from transacting insurance or reinsurance based upon a hazardous financial condition.

The assuming insurer shall provide the commissioner with copies of any orders or other documents initiating proceedings subject to disclosure under this paragraph. The statement shall affirm that no actions, proceedings, or orders subject to this subparagraph are outstanding against the assuming insurer or any affiliated person who owns or has a controlling interest in the assuming insurer, except as disclosed in the statement.

(G) Demonstrates to the satisfaction of the commissioner that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers. An assuming insurer is deemed to meet this requirement if it maintains a surplus as regards policyholders in an amount that is not less than twenty million dollars (\$20,000,000) and whose accreditation has not been denied by the commissioner within 90 days of its submission. An assuming insurer who is not deemed to meet this requirement shall obtain the affirmative approval of the commissioner. The approval of the commissioner shall be based upon a finding that the assuming insurer has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers.

(2) The commissioner may deny or revoke an assuming insurer's accreditation if the assuming insurer does not meet all of the standards required of an accredited reinsurer, or if its accreditation would be hazardous to the policyholders of this state. In determining whether to deny or revoke accreditation, the commissioner may consider the qualifications of the assuming insurer with respect to all the following subjects:

- (A) Its financial stability.
- (B) The lawfulness and quality of its investments.
- (C) The competency, character, and integrity of its management.
- (D) The competency, character, and integrity of persons who own or have a controlling interest in the assuming insurer.
- (E) Whether claims under its contracts are promptly and fairly adjusted and are promptly and fully paid in accordance with the law and the terms of the contracts.

(3) Credit shall not be allowed a domestic ceding insurer if the assuming insurer's accreditation has been revoked by the commissioner after notice and hearing.

(c) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that has been certified by the commissioner pursuant to Section 922.41.

(d) (1) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that maintains a trust fund in a qualified United States financial institution as defined in subdivision (b) of Section 922.7 for the payment of the valid claims of its United States ceding insurers, their assigns, and successors in interest. To enable the commissioner to determine the sufficiency of the trust

fund the assuming insurer shall report annually to the commissioner information substantially the same as that required to be reported on the NAIC Annual Statement form by licensed insurers or any other form required by the NAIC.

(2) Credit for reinsurance shall not be granted under this subdivision unless the form of the trust and any amendments to the trust have been approved by either:

(A) The commissioner of the state where the trust is domiciled.

(B) The commissioner of another state who, pursuant to the terms of the trust instrument, has accepted principal regulatory oversight of the trust.

The trust and any trust amendments shall also be filed with the commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled. Notwithstanding the foregoing, nothing in this paragraph shall prevent the commissioner from disapproving the form of the trust if it is not in compliance with this state's laws and regulations.

(3) Credit for reinsurance shall not be granted under this subdivision unless the following requirements are met:

(A) The trust instrument shall provide that contested claims shall be valid, enforceable, and payable out of funds in trust to the extent remaining unsatisfied 30 days after entry of the final order of any court of competent jurisdiction in the United States.

(B) The trust shall vest legal title to its assets in the trustees of the trust for the benefit of the grantor's United States ceding insurers, their assigns, and successors in interest.

(C) The trust and the assuming insurer shall be subject to examination as determined by the commissioner.

(D) The trust shall remain in effect for as long as the assuming insurer, or any member or former member of a group of insurers, shall have outstanding obligations due under the reinsurance agreements subject to the trust.

(E) No later than February 28 of each year, the trustees of the trust shall report to the commissioner in writing setting forth the balance of the trust and listing the trust's investments at the preceding yearend and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire within the next 18 months.

(F) The assuming insurer shall do both of the following:

(i) Submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, comply with all requirements necessary to give the court jurisdiction, and abide by the final decision of the court or of any appellate court in the event of an appeal.

(ii) Designate the commissioner or an attorney in this state as its true and lawful agent upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding insurer.

This subparagraph is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if this obligation is created in the agreement.

(G) The assuming insurer shall agree in the trust agreement that notwithstanding any other provision in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by paragraph (4), or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile:

(i) The trustee shall comply with an order of the commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner with regulatory oversight all of the assets of the trust fund.

(ii) The assets shall be distributed by, and insurance claims shall be filed with and valued by, the commissioner with regulatory oversight in accordance with the laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic insurance companies.

(iii) If the commissioner with regulatory oversight determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the United States ceding insurers of the grantor of the trust, the assets or part thereof shall be returned by the commissioner with regulatory oversight to the trustee for distribution in accordance with the trust agreement.

(iv) The grantor hereby waives any right otherwise available to it under United States law that is inconsistent with this provision.

(4) The following requirements apply to the following categories of assuming insurer:

(A) The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by United States domiciled ceding insurers, and, in addition, the assuming insurer shall maintain a trustee surplus of not less than twenty million dollars (\$20,000,000), except as provided in subparagraph (B), (C), or (D).

(B) In the case of a group including incorporated and individual unincorporated underwriters:

(i) For reinsurance ceded under reinsurance agreements with an inception, amendment, or renewal date on or after January 1, 1993, the trust shall consist of a trustee account in an amount not less than the respective underwriters' several liabilities attributable to business ceded by United States domiciled ceding insurers to any underwriter of the group.

(ii) For reinsurance ceded under reinsurance agreements with an inception date on or before December 31, 1992, and not amended or renewed after that date, notwithstanding the other provisions of this article, the trust shall consist of a trustee account in an amount not less than the respective underwriters' several insurance and reinsurance liabilities attributable to business written in the United States.

(iii) In addition to the trusts required in clauses (i) and (ii), the group shall maintain in trust a trustee surplus of which one hundred million dollars (\$100,000,000) shall be held jointly for the benefit of the United States domiciled ceding insurers of any member of the group for all years of account.

(iv) The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members.

(v) The group shall, within 90 days after its financial statements are due to be filed with the group's domiciliary regulator, provide to the commissioner an annual certification by the group's domiciliary regulator of the solvency of each underwriter member; or, if a certification is unavailable, financial statements prepared by independent public accountants of each underwriter member of the group.

(C) In the case of a group of incorporated insurers under common administration, the group shall meet all of the following requirements:

(i) Have continuously transacted an insurance business outside the United States for at least three years immediately prior to making application for accreditation and be in good standing with its domiciliary regulator.

(ii) Demonstrate that individual insurer members maintain standards and financial conditions reasonably comparable to admitted insurers.

(iii) Maintain aggregate policyholders' surplus of at least ten billion dollars (\$10,000,000,000).

(iv) Maintain a trust fund in an amount not less than the group's several liabilities attributable to business ceded by United States domiciled ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of such group.

(v) In addition, maintain a joint trusteed surplus of which one hundred million dollars (\$100,000,000) shall be held jointly for the benefit of United States ceding insurers of any member of the group as additional security for these liabilities. The commissioner shall have the authority to require additional amounts to be held in the trust as a condition for initial or continued accreditation if the commissioner determines that these additional amounts are required for the protection of ceding insurers.

(vi) Within 90 days after its financial statements are due to be filed with the group's domiciliary regulator, make available to the commissioner an annual certification of each underwriter member's solvency by the member's domiciliary regulator, and financial statements for each underwriter member of the group prepared by its independent public accountant.

(D) At any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three full years, the commissioner may authorize a reduction in the required trusteed surplus, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of United States ceding insurers, policyholders, and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cashflows, and shall consider all material risk factors,

including, when applicable, the lines of business involved, the stability of the incurred loss estimates, and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trusted surplus may not be reduced to an amount less than 50 percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust, unless the commissioner expressly finds that appropriate circumstances justify a lower level of minimum required trusted surplus, provided the minimum required trusted surplus may not be reduced to an amount less than 30 percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust.

(e) Credit shall be allowed when the reinsurance ceded to an assuming insurer not meeting the requirements of subdivision (a), (b), (c), or (d), but only as to the insurance of risks located in jurisdictions where the reinsurance is required by applicable law or regulation of that jurisdiction. As used in this section, "jurisdiction" means state, district, or territory of the United States and any lawful national government.

SEC. 2. Section 922.41 of the Insurance Code is amended to read:

922.41. (a) Credit shall be allowed a domestic insurer when the reinsurance is ceded to an assuming insurer that has been certified by the commissioner as a reinsurer in this state and secures its obligations in accordance with the requirements of this section. Credit shall be allowed at all times for which statutory financial statement credit for reinsurance is claimed under this section. The credit allowed shall be based upon the security held by or on behalf of the ceding insurer in accordance with a rating assigned to the certified reinsurer by the commissioner. The security shall be in a form consistent with this section, any regulations promulgated by the commissioner, and Section 922.5.

(b) In order to be eligible for certification, the assuming insurer shall meet the following requirements:

(1) The assuming insurer shall be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the commissioner pursuant to subdivisions (f) and (g).

(2) The assuming insurer shall maintain minimum capital and surplus, or its equivalent, in an amount to be determined by the

commissioner, but no less than two hundred fifty million dollars (\$250,000,000) calculated in accordance with paragraph (4) of subdivision (f) of this section or Section 922.5. This requirement may also be satisfied by an association including incorporated and individual unincorporated underwriters having minimum capital and surplus equivalents (net of liabilities) of at least two hundred fifty million dollars (\$250,000,000) and a central fund containing a balance of at least two hundred fifty million dollars (\$250,000,000).

(3) The assuming insurer shall maintain financial strength ratings from two or more rating agencies deemed acceptable by the commissioner. These ratings shall be based on interactive communication between the rating agency and the assuming insurer and shall not be based solely on publicly available information. These financial strength ratings will be one factor used by the commissioner in determining the rating that is assigned to the assuming insurer. Acceptable rating agencies include the following:

- (A) Standard & Poor's.
- (B) Moody's Investors Service.
- (C) Fitch Ratings.
- (D) A.M. Best Company.
- (E) Any other nationally recognized statistical rating organization.

(4) The assuming insurer shall agree to submit to the jurisdiction of this state, appoint the commissioner or a designated attorney in this state as its agent for service of process in this state, and agree to provide security for 100 percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if it resists enforcement of a final United States judgment.

(5) The assuming insurer shall agree to meet applicable information filing requirements as determined by the commissioner, both with respect to an initial application for certification and on an ongoing basis.

(6) The certified reinsurer shall comply with any other requirements deemed relevant by the commissioner.

(c) (1) If an applicant for certification has been certified as a reinsurer in a National Association of Insurance Commissioners (NAIC) accredited jurisdiction, the commissioner may defer to that jurisdiction's certification, and has the discretion to defer to the rating assigned by that jurisdiction if the assuming insurer

submits a properly executed Form CR-1 (as published on the department's Internet Web site), and such additional information as the commissioner requires. The commissioner, however, may perform an independent review and determination of any applicant. The assuming insurer shall then be considered to be a certified reinsurer in this state.

(2) If the commissioner defers to a certification determination by another state, any change in the certified reinsurer's status or rating in the other jurisdiction shall apply automatically in this state as of the date it takes effect in the other jurisdiction unless the commissioner otherwise determines. The certified reinsurer shall notify the commissioner of any change in its status or rating within 10 days after receiving notice of the change.

(3) The commissioner may withdraw recognition of the other jurisdiction's rating at any time and assign a new rating in accordance with subdivision (h).

(4) The commissioner may withdraw recognition of the other jurisdiction's certification at any time, with written notice to the certified reinsurer. Unless the commissioner suspends or revokes the certified reinsurer's certification in accordance with this section and Section 922.42, the certified reinsurer's certification shall remain in good standing in this state for a period of three months, which shall be extended if additional time is necessary to consider the assuming insurer's application for certification in this state.

(d) An association, including incorporated and individual unincorporated underwriters, may be a certified reinsurer. In order to be eligible for certification, in addition to satisfying requirements of subdivision (b), the reinsurer shall meet all of the following requirements:

(1) The association shall satisfy its minimum capital and surplus requirements through the capital and surplus equivalents (net of liabilities) of the association and its members, which shall include a joint central fund that may be applied to any unsatisfied obligation of the association or any of its members, in an amount determined by the commissioner to provide adequate protection.

(2) The incorporated members of the association shall not be engaged in any business other than underwriting as a member of the association and shall be subject to the same level of regulation and solvency control by the association's domiciliary regulator as are the unincorporated members.

(3) Within 90 days after its financial statements are due to be filed with the association's domiciliary regulator, the association shall provide to the commissioner an annual certification by the association's domiciliary regulator of the solvency of each underwriter member or, if a certification is unavailable, financial statements, prepared by independent public accountants, of each underwriter member of the association.

(e) (1) The commissioner shall post notice on the department's Internet Web site promptly upon receipt of any application for certification, including instructions on how members of the public may respond to the application. The commissioner shall not take final action on the application until at least 30 days after posting the notice required by this subdivision.

(2) The commissioner shall issue written notice to an assuming insurer that has made application and has been approved as a certified reinsurer. Included in that notice shall be the rating assigned the certified reinsurer in accordance with subdivision (h). The commissioner shall publish a list of all certified reinsurers and their ratings.

(f) The certified reinsurer shall agree to meet applicable information filing requirements as determined by the commissioner, both with respect to an initial application for certification and on an ongoing basis. All information submitted by certified reinsurers that is not otherwise public information subject to disclosure shall be exempted from disclosure under Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, and shall be withheld from public disclosure. The applicable information filing requirements are as follows:

(1) Notification within 10 days of any regulatory actions taken against the certified reinsurer, any change in the provisions of its domiciliary license or any change in rating by an approved rating agency, including a statement describing those changes and the reasons for those changes.

(2) Annually, Form CR-F or CR-S, as applicable pursuant to the instructions published on the department's Internet Web site.

(3) Annually, the report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in paragraph (4).

(4) Annually, audited financial statements, (audited United States Generally Accepted Accounting Principles basis, if available,

audited International Financial Reporting Standards basis statements are allowed, but must include an audited footnote reconciling equity and net income to a United States Generally Accepted Accounting Principles basis, or, with the written permission of the commissioner, audited International Financial Reporting Standards statements with reconciliation to United States Generally Accepted Accounting Principles certified by an officer of the company), regulatory filings, and actuarial opinion (as filed with the certified reinsurer's supervisor). Upon the initial certification, audited financial statements for the last three years filed with the certified reinsurer's supervisor.

(5) At least annually, an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from United States domestic ceding insurers.

(6) A certification from the certified reinsurer's domestic regulator that the certified reinsurer is in good standing and maintains capital in excess of the jurisdiction's highest regulatory action level.

(7) Any other information that the commissioner may reasonably require.

(g) If the commissioner certifies a non-United States domiciled insurer, the commissioner shall create and publish a list of qualified jurisdictions, under which an assuming insurer licensed and domiciled in that jurisdiction is eligible to be considered for certification by the commissioner as a certified reinsurer.

(1) In order to determine whether the domiciliary jurisdiction of a non-United States assuming insurer is eligible to be recognized as a qualified jurisdiction, the commissioner shall evaluate the appropriateness and effectiveness of the reinsurance supervisory system of the jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits, and the extent of reciprocal recognition afforded by the non-United States jurisdiction to reinsurers licensed and domiciled in the United States. The commissioner shall determine the appropriate process for evaluating the qualifications of those jurisdictions. Prior to its listing, a qualified jurisdiction shall agree in writing to share information and cooperate with the commissioner with respect to all certified reinsurers domiciled within that jurisdiction. A jurisdiction may not be recognized as a qualified jurisdiction if the commissioner has determined that the jurisdiction does not

adequately and promptly enforce final United States judgments and arbitration awards. Additional factors may be considered in the discretion of the commissioner, including, but not limited to, the following:

(A) The framework under which the assuming insurer is regulated.

(B) The structure and authority of the domiciliary regulator with regard to solvency regulation requirements and financial surveillance.

(C) The substance of financial and operating standards for assuming insurers in the domiciliary jurisdiction.

(D) The form and substance of financial reports required to be filed or made publicly available by reinsurers in the domiciliary jurisdiction and the accounting principles used.

(E) The domiciliary regulator's willingness to cooperate with United States regulators in general and the commissioner in particular.

(F) The history of performance by assuming insurers in the domiciliary jurisdiction.

(G) Any documented evidence of substantial problems with the enforcement of final United States judgments in the domiciliary jurisdiction.

(H) Any relevant international standards or guidance with respect to mutual recognition of reinsurance supervision adopted by the International Association of Insurance Supervisors or a successor organization.

(I) Any other matters deemed relevant by the commissioner.

(2) The commissioner shall consider the list of qualified jurisdictions published through the NAIC committee process in determining qualified jurisdictions. The commissioner may include on the list published pursuant to this section any jurisdiction on the NAIC list of qualified jurisdictions or on any equivalent list of the United States Treasury.

(3) If the commissioner approves a jurisdiction as qualified that does not appear on either the NAIC list of qualified jurisdictions, or the United States Treasury list, the commissioner shall provide thoroughly documented justification in accordance with criteria to be developed under this section.

(4) United States jurisdictions that meet the requirements for accreditation under the NAIC financial standards and accreditation program shall be recognized as qualified jurisdictions.

(5) If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, the commissioner has the discretion to suspend the reinsurer's certification indefinitely, in lieu of revocation.

(h) The commissioner shall assign a rating to each certified reinsurer, giving due consideration to the financial strength ratings that have been assigned by rating agencies deemed acceptable to the commissioner pursuant to this section. The commissioner shall publish a list of all certified reinsurers and their ratings.

(1) Each certified reinsurer shall be rated on a legal entity basis, with due consideration being given to the group rating where appropriate, except that an association including incorporated and individual unincorporated underwriters that has been approved to do business as a single certified reinsurer may be evaluated on the basis of its group rating. Factors that may be considered as part of the evaluation process include, but are not limited to, the following:

(A) The certified reinsurer's financial strength rating from an acceptable rating agency. The maximum rating that a certified reinsurer may be assigned shall correspond to its financial strength rating as set forth in clauses (i) to (vi), inclusive. The commissioner shall use the lowest financial strength rating received from an approved rating agency in establishing the maximum rating of a certified reinsurer. A failure to obtain or maintain at least two financial strength ratings from acceptable rating agencies shall result in loss of eligibility for certification.

(i) Ratings category "Secure - 1" corresponds to A.M. Best Company rating A++; Standard & Poor's rating AAA; Moody's Investors Service rating Aaa; and Fitch Ratings rating AAA.

(ii) Ratings category "Secure - 2" corresponds to A.M. Best Company rating A+; Standard & Poor's rating AA+, AA, or AA-; Moody's Investors Service rating Aa1, Aa2, or Aa3; and Fitch Ratings rating AA+, AA, or AA-.

(iii) Ratings category "Secure - 3" corresponds to A.M. Best Company rating A; Standard & Poor's rating A+ or A; Moody's Investors Service rating A1 or A2; and Fitch Ratings rating A+ or A.

(iv) Ratings category “Secure - 4” corresponds to A.M. Best Company rating A-; Standard & Poor’s rating A-; Moody’s Investors Service rating A3; and Fitch Ratings rating A-.

(v) Ratings category “Secure - 5” corresponds to A.M. Best Company rating B++ or B+; Standard & Poor’s rating BBB+, BBB, or BBB-; Moody’s Investors Service rating Baa1, Baa2, or Baa3; and Fitch Ratings rating BBB+, BBB, or BBB-.

(vi) Ratings category “Vulnerable - 6” corresponds to A.M. Best Company rating B, B-, C++, C+, C, C-, D, E, or F; Standard & Poor’s rating BB+, BB, BB-, B+, B, B-, CCC, CC, C, D, or R; Moody’s Investors Service rating Ba1, Ba2, Ba3, B1, B2, B3, Caa, Ca, or C; and Fitch Ratings rating BB+, BB, BB-, B+, B, B-, CCC+, CC, CCC-, or DD.

(B) The business practices of the certified reinsurer in dealing with its ceding insurers, including its record of compliance with reinsurance contractual terms and obligations.

(C) For certified reinsurers domiciled in the United States, a review of the most recent applicable NAIC Annual Statement Blank, either Schedule F (for property/casualty reinsurers) or Schedule S (for life and health reinsurers).

(D) For certified reinsurers not domiciled in the United States, a review annually of Form CR-F (for property/casualty reinsurers) or Form CR-S (for life and health reinsurers) (as published on the department’s Internet Web site).

(E) The reputation of the certified reinsurer for prompt payment of claims under reinsurance agreements, based on an analysis of ceding insurers’ Schedule F reporting of overdue reinsurance recoverables, including the proportion of obligations that are more than 90 days past due or are in dispute, with specific attention given to obligations payable to companies that are in administrative supervision or receivership.

(F) Regulatory actions against the certified reinsurer.

(G) The report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in subparagraph (H).

(H) For certified reinsurers not domiciled in the United States, audited financial statements, (audited United States Generally Accepted Accounting Principles basis, if available, audited International Financial Reporting Standards basis statements are allowed, but must include an audited footnote reconciling equity

and net income to a United States Generally Accepted Accounting Principles basis, or, with the written permission of the commissioner, audited International Financial Reporting Standards statements with reconciliation to United States Generally Accepted Accounting Principles certified by an officer of the company), regulatory filings, and actuarial opinion (as filed with the non-United States jurisdiction supervisor). Upon the initial application for certification, the commissioner shall consider audited financial statements for the last three years filed with its non-United States jurisdiction supervisor.

(I) The liquidation priority of obligations to a ceding insurer in the certified reinsurer's domiciliary jurisdiction in the context of an insolvency proceeding.

(J) A certified reinsurer's participation in any solvent scheme of arrangement, or similar procedure, which involves United States ceding insurers. The commissioner shall receive prior notice from a certified reinsurer that proposes participation by the certified reinsurer in a solvent scheme of arrangement.

(K) Any other information deemed relevant by the commissioner.

(2) Based on the analysis conducted under subparagraph (E) of paragraph (1) of a certified reinsurer's reputation for prompt payment of claims, the commissioner may make appropriate adjustments in the security the certified reinsurer is required to post to protect its liabilities to United States ceding insurers, provided that the commissioner shall, at a minimum, increase the security the certified reinsurer is required to post by one rating level under regulations promulgated by the commissioner, if the commissioner finds either of the following:

(A) More than 15 percent of the certified reinsurer's ceding insurance clients have overdue reinsurance recoverables on paid losses of 90 days or more that are not in dispute and that exceed one hundred thousand dollars (\$100,000) for each ceding insurer.

(B) The aggregate amount of reinsurance recoverables on paid losses that are not in dispute and that are overdue by 90 days or more exceeds fifty million dollars (\$50,000,000).

(3) The assuming insurer shall submit a properly executed Form CR-1 (as published on the department's Internet Web site) as evidence of its submission to the jurisdiction of this state, appointment of the commissioner as an agent for service of process

in this state, and agreement to provide security for 100 percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if it resists enforcement of a final United States judgment. The commissioner shall not certify any assuming insurer that is domiciled in a jurisdiction that the commissioner has determined does not adequately and promptly enforce final United States judgments or arbitration awards.

(4) (A) In the case of a downgrade by a rating agency or other disqualifying circumstance, the commissioner shall, upon written notice, assign a new rating to the certified reinsurer in accordance with the requirements of this subdivision.

(B) The commissioner shall have the authority to suspend, revoke, or otherwise modify a certified reinsurer's certification at any time if the certified reinsurer fails to meet its obligations or security requirements under this section, or if other financial or operating results of the certified reinsurer, or documented significant delays in payment by the certified reinsurer, lead the commissioner to reconsider the certified reinsurer's ability or willingness to meet its contractual obligations.

(C) If the rating of a certified reinsurer is upgraded by the commissioner, the certified reinsurer may meet the security requirements applicable to its new rating on a prospective basis, but the commissioner shall require the certified reinsurer to post security under the previously applicable security requirements as to all contracts in force on or before the effective date of the upgraded rating. If the rating of a certified reinsurer is downgraded by the commissioner, the commissioner shall require the certified reinsurer to meet the security requirements applicable to its new rating for all business it has assumed as a certified reinsurer.

(D) Upon revocation of the certification of a certified reinsurer by the commissioner, the assuming insurer shall be required to post security in accordance with Section 922.5 in order for the ceding insurer to continue to take credit for reinsurance ceded to the assuming insurer. If funds continue to be held in trust in accordance with subdivision (d) of Section 922.4, the commissioner may allow additional credit equal to the ceding insurer's pro rata share of those funds, discounted to reflect the risk of uncollectibility and anticipated expenses of trust administration. Notwithstanding the change of a certified reinsurer's rating or revocation of its certification, a domestic insurer that has ceded

reinsurance to that certified reinsurer shall not be denied credit for reinsurance for a period of three months for all reinsurance ceded to that certified reinsurer, unless the reinsurance is found by the commissioner to be at high risk of uncollectibility.

(i) A certified reinsurer shall secure obligations assumed from United States ceding insurers under this subdivision at a level consistent with its rating. The amount of security required in order for full credit to be allowed shall correspond with the following requirements:

Ratings security required

Secure - 1: 0%

Secure - 2: 10%

Secure - 3: 20%

Secure - 4: 50%

Secure - 5: 75%

Vulnerable - 6: 100%

(1) In order for a domestic ceding insurer to qualify for full financial statement credit for reinsurance ceded to a certified reinsurer, the certified reinsurer shall maintain security in a form acceptable to the commissioner and consistent with Section 922.5, or in a multibeneficiary trust in accordance with subdivision (d) of Section 922.4, except as otherwise provided in this subdivision. In order for a domestic insurer to qualify for full financial statement credit, reinsurance contracts entered into or renewed under this section shall include a proper funding clause that requires the certified reinsurer to provide and maintain security in an amount sufficient to avoid the imposition of any financial statement penalty on the ceding insurer under this section for reinsurance ceded to the certified reinsurer.

(2) If a certified reinsurer maintains a trust to fully secure its obligations subject to subdivision (d) of Section 922.4, and chooses to secure its obligations incurred as a certified reinsurer in the form of a multibeneficiary trust, the certified reinsurer shall maintain separate trust accounts for its obligations incurred under reinsurance agreements issued or renewed as a certified reinsurer with reduced security as permitted by this subdivision or comparable laws of other United States jurisdictions and for its obligations subject to subdivision (d) of Section 922.4. It shall be a condition to the grant of certification under this section that the certified reinsurer shall have bound itself, by the language of the

trust and agreement with the commissioner with principal regulatory oversight of each of those trust accounts, to fund, upon termination of any of those trust accounts, out of the remaining surplus of those trusts any deficiency of any other of those trust accounts.

(3) The minimum trustee surplus requirements provided in subdivision (d) of Section 922.4 are not applicable with respect to a multibeneficiary trust maintained by a certified reinsurer for the purpose of securing obligations incurred under this subdivision, except that the trust shall maintain a minimum trustee surplus of ten million dollars (\$10,000,000).

(4) With respect to obligations incurred by a certified reinsurer under this subdivision, if the security is insufficient, the commissioner shall reduce the allowable credit by an amount proportionate to the deficiency, and have the discretion to impose further reductions in allowable credit upon finding that there is a material risk that the certified reinsurer's obligations will not be paid in full when due.

(5) For purposes of this subdivision, a certified reinsurer whose certification has been terminated for any reason shall be treated as a certified reinsurer required to secure 100 percent of its obligations.

(A) As used in this subdivision, the term "terminated" means revocation, suspension, voluntary surrender, and inactive status.

(B) If the commissioner continues to assign a higher rating as permitted by other provisions of this section, this requirement shall not apply to a certified reinsurer in inactive status or to a reinsurer whose certification has been suspended.

(6) The commissioner shall require the certified reinsurer to post 100-percent security in accordance with Section 922.5, for the benefit of the ceding insurer or its estate, upon the entry of an order of rehabilitation, liquidation, or conservation against the ceding insurer.

(7) Affiliated reinsurance transactions shall receive the same opportunity for reduced security requirements as all other reinsurance transactions.

(8) In order to facilitate the prompt payment of claims, a certified reinsurer shall not be required to post security for catastrophe recoverables for a period of one year from the date of the first instance of a liability reserve entry by the ceding company as a

result of a loss from a catastrophic occurrence that is likely to result in significant insured losses, as recognized by the commissioner. The one-year deferral period is contingent upon the certified reinsurer continuing to pay claims in a timely manner, as determined by the commissioner, in writing. Reinsurance recoverables for only the following lines of business as reported on the NAIC annual financial statement related specifically to the catastrophic occurrence shall be included in the deferral:

- (A) Line 1: Fire.
- (B) Line 2: Allied lines.
- (C) Line 3: Farmowners' multiple peril.
- (D) Line 4: Homeowners' multiple peril.
- (E) Line 5: Commercial multiple peril.
- (F) Line 9: Inland marine.
- (G) Line 12: Earthquake.
- (H) Line 21: Auto physical damage.

(9) Credit for reinsurance under this section shall apply only to reinsurance contracts entered into or renewed on or after the effective date of the certification of the assuming insurer. Any reinsurance contract entered into prior to the effective date of the certification of the assuming insurer that is subsequently amended by mutual agreement of the parties to the reinsurance contract after the effective date of the certification of the assuming insurer, or a new reinsurance contract, covering any risk for which collateral was provided previously, shall only be subject to this section with respect to losses incurred and reserves reported from and after the effective date of the amendment or new contract.

(10) Nothing in this section shall be construed to prohibit the parties to a reinsurance agreement from agreeing to provisions establishing security requirements that exceed the minimum security requirements established for certified reinsurers under this section.

(j) A certified reinsurer that ceases to assume new business in this state may request to maintain its certification in inactive status in order to continue to qualify for a reduction in security for its in-force business. An inactive certified reinsurer shall continue to comply with all applicable requirements of this section, and the commissioner shall assign a rating that takes into account, if relevant, the reasons why the reinsurer is not assuming new business.

(k) Notwithstanding this section, credit for reinsurance or deduction from liability by a domestic ceding insurer for cessions to a certified reinsurer may be disallowed upon a finding by the commissioner that the application of the literal provisions of this section does not accomplish its intent, or either the financial condition of the reinsurer or the collateral or other security provided by the reinsurer does not, in substance, satisfy the credit for reinsurance requirements in Section 922.4.

(l) This section shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.

SEC. 3. Section 927.2 of the Insurance Code is amended to read:

927.2. (a) (1) By July 1, 2013, each admitted insurer, with California premiums written of one hundred million dollars (\$100,000,000) or more, shall submit a report to the commissioner on its minority, women, and disabled veteran-owned business procurement efforts during the reporting period.

(2) The report shall include all of the following:

(A) The insurer's supplier diversity policy statement.

(B) The insurer's outreach and communications to minority, women, and disabled veteran business enterprises, including:

(i) How the insurer encourages and seeks out minority, women, and disabled veteran owned business enterprises to become potential suppliers.

(ii) How the insurer encourages its employees involved in procurement to seek out minority, women, and disabled veteran-owned business enterprises to become potential suppliers.

(iii) How the insurer conducts outreach and communication to minority, women, and disabled veteran business enterprises.

(iv) How the insurer supports organizations that promote or certify minority, women, and disabled veteran-owned business enterprises.

(v) Information regarding appropriate contacts at the insurer for interested business enterprises.

(C) The report shall include information about which procurements are made from minority and women business enterprises with a headquarters' address in California, and from disabled veteran business enterprises, as defined in subdivision (b) of Section 927.1, with each category aggregated separately, to

the extent that information is readily accessible. An insurer may also include other relevant information in the report.

(3) An insurer that does not enter into contracts to procure goods or services in California satisfies the requirements of paragraph (2) by filing a statement with the commissioner attesting that it does not enter into procurement contracts in California.

(b) Nothing in this section shall be construed to require quotas, set-asides, or preferences in an admitted insurer's procurement of goods or services, nor does this section apply to insurer producer or licensee contracts. Admitted insurers retain the authority to use business judgment to select the supplier for a particular contract.

(c) Nothing in this section shall preclude an admitted insurer that is a member of an insurance holding company system, as defined in Article 4.7 (commencing with Section 1215) of Chapter 2, from complying with paragraphs (1) and (2) of subdivision (a) through a single filing on behalf of the entire group of affiliated companies.

(d) Failure to file the report required by subdivision (a), by July 1, 2013, shall subject the admitted insurer to a civil penalty to be fixed by the commissioner, not to exceed five thousand dollars (\$5,000), or if the act or practice was willful, a civil penalty not to exceed ten thousand dollars (\$10,000). An insurer may request, and the commissioner may grant, a 30-day extension to file the report if needed due to unintended or unforeseen delays. If the insurer has failed to file the report within 30 days of a written notice by the commissioner that the insurer has failed to file the report, the commissioner may find that the failure to file the report was willful and increase the civil penalty to an amount not to exceed ten thousand dollars (\$10,000). The penalty imposed by this section shall be enforced by the commissioner and is appealable by means of any remedy provided by Section 12940, or by Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. This subdivision is the sole means for enforcement of this section.

(e) Commencing July 1, 2015, each admitted insurer specified in subdivision (a) shall biennially update its supplier diversity report and submit the new report to the commissioner no later than July 1.

(f) By September 30 of the reporting year, the commissioner shall establish and maintain a link on the department's Internet

Web site that provides public access to the contents of each admitted insurer's report on minority, women, and disabled veteran-owned business procurement efforts. The commissioner shall include a statement on the department's Internet Web site that the information contained in the insurer's report on minority, women, and disabled veteran-owned businesses is provided for informational purposes only.

SEC. 4. Section 1775.1 of the Insurance Code is amended to read:

1775.1. (a) Each calendar year, every surplus line broker whose annual tax for the preceding calendar year was twenty thousand dollars (\$20,000) or more shall make monthly installment payments on account of the annual tax on business done during the current calendar year imposed by Section 1775.5.

(b) Notwithstanding any other law, the commissioner may relieve a surplus line broker of his or her obligation to make monthly payments if the broker establishes to the satisfaction of the commissioner that either the broker has ceased to transact business in this state, or his or her annual tax for the current year will be less than twenty thousand dollars (\$20,000).

SEC. 5. Section 10505.1 of the Insurance Code is amended to read:

10505.1. (a) (1) Any nonprofit cooperative assessment association, the membership and insurance in which are restricted to members of a labor union, is exempt from the provisions of this code relating to the supervision or regulation of insurance with respect to the provision of job protection benefits, including any accidental death benefits, to its members. A nonprofit cooperative assessment association established pursuant to this section is not, and shall not be, a member of the California Insurance Guarantee Association under Article 14.2 (commencing with Section 1063) of Chapter 1 of Part 2 of Division 1, or any other insurance guaranty association in this state.

(2) Each policy issued in this state pursuant to this section shall contain, in at least 10-point typeface on the front page and the declaration page, the following notice:

“NOTICE

This policy is issued by a nonprofit cooperative assessment association that is not subject to CALIFORNIA insurance laws

and regulation and is not admitted in California. California insurance guaranty funds are not available for your nonprofit cooperative assessment association.”

(b) “Job protection insurance” means the business of providing indemnity to conductors, engineers, motormen, brakemen, switchmen, firemen, dispatchers, clerks, operators, trackmen, signalmen, and maintenance of way personnel of steam and electric railways and to busdrivers and truckdrivers employed by common carriers for loss of position arising from discharge or suspension, which indemnity is payable in installments that do not exceed the average monthly wage of the insured. “Job protection insurance” may include accidental death coverage insuring the member. Nothing in this section is intended to regulate or define any benefit delivery system which provides indemnity, as defined in this section, in any manner other than the sale of insurance. Labor unions providing the type of indemnity defined in this section, shall be expressly exempt from any regulation by any state agency.

SEC. 6. Section 11628 of the Insurance Code is amended to read:

11628. (a) (1) No admitted insurer that is licensed to issue and issuing motor vehicle liability policies, as defined in Section 16450 of the Vehicle Code, shall fail or refuse to accept an application for that insurance, to issue that insurance to an applicant therefor, or issue or cancel that insurance under conditions less favorable to the insured than in other comparable cases, except for reasons applicable alike to persons of every characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code, including, but not limited to, language, or persons of the same geographic area; nor shall any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code, including, but not limited to, language, or location within a geographic area, of itself, constitute a condition or risk for which a higher rate, premium, or charge may be required of the insured for that insurance.

(2) As used in this section “geographic area” means a portion of this state of not less than 20 square miles defined by description in the rating manual of an insurer or in the rating manual of a rating bureau of which the insurer is a member or subscriber. In order that geographic areas used for rating purposes may reflect

homogeneity of loss experience, a record of loss experience for the geographic area shall include the breakdown of actual loss experience statistics by ZIP Code area (as designated by the United States Postal Service) within each geographic area for family owned private passenger motor vehicles and lightweight commercial motor vehicles, under 1 ½-ton load capacity, used for local service or retail delivery, normally within a 50-mile radius of garaging, and that are not part of a fleet of five or more motor vehicles under one ownership. A record of loss experience for the geographic area, including that statistical data by ZIP Code area, shall be submitted biennially to the commissioner for examination by each insurer licensed to issue and issuing motor vehicle liability policies, motor vehicle physical damage policies, or both. Loss experience shall include separate loss data for each type of coverage, including liability or physical damage coverage, underwritten. The biennial report shall include the insurer's statewide loss ratio, loss adjustment expense ratio, expense ratio, and combined ratio on its assigned-risk business. Statewide summary data shall be submitted annually to the commissioner. An insurer may satisfy its obligation to report statistical data under this subdivision by providing its loss experience data and statewide expense ratio and combined ratio on its assigned-risk business to a rating or advisory organization for submission to the commissioner. This data shall be made available to the public by the commissioner biennially after examination. However, the data shall be released in aggregate form by ZIP Code or statewide basis in order that no individual insurer's loss experience for any specific geographic area be revealed. Differentiation in rates between geographical areas shall not constitute unfair discrimination.

(3) All information reported to the department pursuant to this subdivision shall be confidential.

(4) As used in this section:

(A) "Language" means the inability to speak, read, write, or comprehend the English language.

(B) "Dependents" shall include, but not be limited to, issue regardless of generation.

(C) "Spouse" shall be determined without regard to current marital status.

(b) The commissioner may require insurers with combined ratios on statewide assigned-risk business that are 10 percent above the

mean combined ratio for all plan participants to also report the following:

(1) The reason for the excessive ratio.

(2) A plan for reducing the ratio, and when the reduction can be expected to occur. The commissioner may require insurers subject to this subdivision to provide periodic reports on the progress in reducing the combined ratio.

(c) (1) No admitted insurer, licensed to issue and issuing motor vehicle liability insurance policies as defined in Section 16450 of the Vehicle Code, shall fail or refuse to accept an application for that insurance, refuse to issue that insurance to an applicant therefor, or cancel that insurance solely for the reason that the applicant for that insurance or any insured is employed in a specific occupation, or is on active duty service in the Armed Forces of the United States.

(2) Nothing in this section shall prohibit an insurer from doing any of the following:

(A) Considering the occupation of the applicant or insured as a condition or risk for which a higher rate or discounted rate may be required or offered for coverage in the course and scope of his or her occupation.

(B) Charging a deviated rate to any classification of risks involving a specific occupation, or grouping thereof, if the rate meets the requirements of Chapter 9 (commencing with Section 1850.4) of Part 2 of Division 1 and is based upon actuarial data that demonstrates a significant actual historical differential between past losses or expenses attributable to the specific occupation, or grouping thereof, and the past losses or expenses attributable to other classification of risks. For purposes of compiling that actuarial data for a specific occupation or grouping thereof, a person shall be deemed employed in the occupation in which that data is compiled if any of the following is true:

(i) The majority of his or her employment during the previous year was in the occupation.

(ii) The majority of his or her aggregate earnings for the immediate preceding three-year period were derived from the occupation.

(iii) The person is a member in good standing of a union that is an authorized collective bargaining agent for persons engaged in the occupation.

(3) Nothing in this section shall be construed to include in the definition of “occupation” any status or activity that does not result in remuneration for work done or services performed, or self-employment in a business operated out of an applicant’s or insured’s place of residence or persons engaged in the renting, leasing, selling, repossessing, rebuilding, wrecking, or salvaging of motor vehicles.

(d) Nothing in this section shall limit or restrict the ability of an insurer to refuse to accept an application for or refuse to issue or cancel insurance for the reason that it is a commercial vehicle or based upon the consideration of a vehicle’s size, weight, design, or intended use.

(e) It is the intent of the Legislature that actuarial data by occupation may be examined for credibility by the commissioner on the same basis as any other automobile insurance data that he or she is empowered to examine.

(f) (1) Except as provided in Article 4 (commencing with Section 11620), nothing in this section or in Article 10 (commencing with Section 1861.01) of Chapter 9 of Part 2 of Division 1 or in any other provision of this code, shall prohibit an insurer from limiting the issuance or renewal of insurance, as defined in subdivision (a) of Section 660, to persons who engage in, or have formerly engaged in, governmental or military service or segments of categories thereof, and their spouses, dependents, direct descendants, and former dependents or spouses.

(2) The term “military service” includes, but is not limited to, officers, warrant officers, and enlisted persons, officer and warrant officer candidates, cadets or midshipmen at a service academy, cadets or midshipmen in advance Reserve Officer Training Corps programs or on Reserve Officer Training Corps program scholarships, National Guard officer candidates, students in government-sponsored precommissioning programs, and foreign military officers while on temporary duty in the United States.

(g) Any person subject to regulation by the commissioner pursuant to this code who fails to comply with a data call required by the department pursuant to subdivision (a) shall be liable to the state for a civil penalty in an amount not exceeding five thousand dollars (\$5,000) for each 30-day period that the person is not in compliance, unless the failure to comply is willful, in which case the civil penalty shall be in an amount not to exceed ten thousand

dollars (\$10,000) for each 30-day period that the person is not in compliance, but not to exceed an aggregate amount of one hundred thousand dollars (\$100,000). The commissioner shall collect the amount so payable and may bring an action in the name of the people of the State of California to enforce collection. These penalties shall be in addition to other penalties provided by law.

(h) This section shall be known and may be cited as the “Rosenthal Auto Insurance Nondiscrimination Law.”

SEC. 7. Section 12251 of the Revenue and Taxation Code, as added by Section 13 of Chapter 33 of the Statutes of 2013, is amended to read:

12251. (a) Each calendar year, insurers transacting insurance in this state and whose annual tax for the preceding calendar year was twenty thousand dollars (\$20,000) or more shall make prepayments of the annual tax for the current calendar year imposed by Section 28 of Article XIII of the California Constitution and this part, provided that prepayments shall not be made with respect to the tax on ocean marine insurance underwriting profit or any retaliatory tax.

(b) This section shall become operative on July 1, 2013.

SEC. 8. Section 12260 of the Revenue and Taxation Code, as added by Section 28 of Chapter 33 of the Statutes of 2013, is amended to read:

12260. (a) Notwithstanding any other provision of this article, the commissioner may relieve an insurer of its obligation to make prepayments if the insurer establishes to the satisfaction of the commissioner that either the insurer has ceased to transact insurance in this state, or the insurer’s annual tax for the current year will be less than twenty thousand dollars (\$20,000).

(b) This section shall become operative on July 1, 2013.

SEC. 9. Section 38750 of the Vehicle Code is amended to read:

38750. (a) For purposes of this division, the following definitions apply:

(1) “Autonomous technology” means technology that has the capability to drive a vehicle without the active physical control or monitoring by a human operator.

(2) (A) “Autonomous vehicle” means any vehicle equipped with autonomous technology that has been integrated into that vehicle.

(B) An autonomous vehicle does not include a vehicle that is equipped with one or more collision avoidance systems, including, but not limited to, electronic blind spot assistance, automated emergency braking systems, park assist, adaptive cruise control, lane keep assist, lane departure warning, traffic jam and queuing assist, or other similar systems that enhance safety or provide driver assistance, but are not capable, collectively or singularly, of driving the vehicle without the active control or monitoring of a human operator.

(3) “Department” means the Department of Motor Vehicles.

(4) An “operator” of an autonomous vehicle is the person who is seated in the driver’s seat, or, if there is no person in the driver’s seat, causes the autonomous technology to engage.

(5) A “manufacturer” of autonomous technology is the person as defined in Section 470 that originally manufactures a vehicle and equips autonomous technology on the originally completed vehicle or, in the case of a vehicle not originally equipped with autonomous technology by the vehicle manufacturer, the person that modifies the vehicle by installing autonomous technology to convert it to an autonomous vehicle after the vehicle was originally manufactured.

(b) An autonomous vehicle may be operated on public roads for testing purposes by a driver who possesses the proper class of license for the type of vehicle being operated if all of the following requirements are met:

(1) The autonomous vehicle is being operated on roads in this state solely by employees, contractors, or other persons designated by the manufacturer of the autonomous technology.

(2) The driver shall be seated in the driver’s seat, monitoring the safe operation of the autonomous vehicle, and capable of taking over immediate manual control of the autonomous vehicle in the event of an autonomous technology failure or other emergency.

(3) Prior to the start of testing in this state, the manufacturer performing the testing shall obtain an instrument of insurance, surety bond, or proof of self-insurance in the amount of five million dollars (\$5,000,000), and shall provide evidence of the insurance, surety bond, or self-insurance to the department in the form and manner required by the department pursuant to the regulations adopted pursuant to subdivision (d).

(c) Except as provided in subdivision (b), an autonomous vehicle shall not be operated on public roads until the manufacturer submits an application to the department, and that application is approved by the department pursuant to the regulations adopted pursuant to subdivision (d). The application shall contain, at a minimum, all of the following certifications:

(1) A certification by the manufacturer that the autonomous technology satisfies all of the following requirements:

(A) The autonomous vehicle has a mechanism to engage and disengage the autonomous technology that is easily accessible to the operator.

(B) The autonomous vehicle has a visual indicator inside the cabin to indicate when the autonomous technology is engaged.

(C) The autonomous vehicle has a system to safely alert the operator if an autonomous technology failure is detected while the autonomous technology is engaged, and when an alert is given, the system shall do either of the following:

(i) Require the operator to take control of the autonomous vehicle.

(ii) If the operator does not or is unable to take control of the autonomous vehicle, the autonomous vehicle shall be capable of coming to a complete stop.

(D) The autonomous vehicle shall allow the operator to take control in multiple manners, including, without limitation, through the use of the brake, the accelerator pedal, or the steering wheel, and it shall alert the operator that the autonomous technology has been disengaged.

(E) The autonomous vehicle's autonomous technology meets Federal Motor Vehicle Safety Standards for the vehicle's model year and all other applicable safety standards and performance requirements set forth in state and federal law and the regulations promulgated pursuant to those laws.

(F) The autonomous technology does not make inoperative any Federal Motor Vehicle Safety Standards for the vehicle's model year and all other applicable safety standards and performance requirements set forth in state and federal law and the regulations promulgated pursuant to those laws.

(G) The autonomous vehicle has a separate mechanism, in addition to, and separate from, any other mechanism required by law, to capture and store the autonomous technology sensor data

for at least 30 seconds before a collision occurs between the autonomous vehicle and another vehicle, object, or natural person while the vehicle is operating in autonomous mode. The autonomous technology sensor data shall be captured and stored in a read-only format by the mechanism so that the data is retained until extracted from the mechanism by an external device capable of downloading and storing the data. The data shall be preserved for three years after the date of the collision.

(2) A certification that the manufacturer has tested the autonomous technology on public roads and has complied with the testing standards, if any, established by the department pursuant to subdivision (d).

(3) A certification that the manufacturer will maintain, an instrument of insurance, a surety bond, or proof of self-insurance as specified in regulations adopted by the department pursuant to subdivision (d), in an amount of five million dollars (\$5,000,000).

(d) (1) As soon as practicable, but no later than January 1, 2015, the department shall adopt regulations setting forth requirements for the submission of evidence of insurance, surety bond, or self-insurance required by subdivision (b), and the submission and approval of an application to operate an autonomous vehicle pursuant to subdivision (c).

(2) The regulations shall include any testing, equipment, and performance standards, in addition to those established for purposes of subdivision (b), that the department concludes are necessary to ensure the safe operation of autonomous vehicles on public roads, with or without the presence of a driver inside the vehicle. In developing these regulations, the department may consult with the Department of the California Highway Patrol, the Institute of Transportation Studies at the University of California, or any other entity identified by the department that has expertise in automotive technology, automotive safety, and autonomous system design.

(3) The department may establish additional requirements by the adoption of regulations, which it determines, in consultation with the Department of the California Highway Patrol, are necessary to ensure the safe operation of autonomous vehicles on public roads, including, but not limited to, regulations regarding the aggregate number of deployments of autonomous vehicles on public roads, special rules for the registration of autonomous vehicles, new license requirements for operators of autonomous

vehicles, and rules for revocation, suspension, or denial of any license or any approval issued pursuant to this division.

(4) The department shall hold public hearings on the adoption of any regulation applicable to the operation of an autonomous vehicle without the presence of a driver inside the vehicle.

(e) (1) The department shall approve an application submitted by a manufacturer pursuant to subdivision (c) if it finds that the applicant has submitted all information and completed testing necessary to satisfy the department that the autonomous vehicles are safe to operate on public roads and the applicant has complied with all requirements specified in the regulations adopted by the department pursuant to subdivision (d).

(2) Notwithstanding paragraph (1), if the application seeks approval for autonomous vehicles capable of operating without the presence of a driver inside the vehicle, the department may impose additional requirements it deems necessary to ensure the safe operation of those vehicles, and may require the presence of a driver in the driver's seat of the vehicle if it determines, based on its review pursuant to paragraph (1), that such a requirement is necessary to ensure the safe operation of those vehicles on public roads. The department shall notify the Legislature of the receipt of an application from a manufacturer seeking approval to operate an autonomous vehicle capable of operating without the presence of a driver inside the vehicle and approval of the application. Approval of the application shall be effective no sooner than 180 days after the date the application is submitted.

(f) Nothing in this division shall limit or expand the existing authority to operate autonomous vehicles on public roads, until 120 days after the department adopts the regulations required by paragraph (1) of subdivision (d).

(g) Federal regulations promulgated by the National Highway Traffic Safety Administration shall supersede the provisions of this division when found to be in conflict with any other state law or regulation.

(h) The manufacturer of the autonomous technology installed on a vehicle shall provide a written disclosure to the purchaser of an autonomous vehicle that describes what information is collected by the autonomous technology equipped on the vehicle. The department may promulgate regulations to assess a fee upon a manufacturer that submits an application pursuant to subdivision

(c) to operate autonomous vehicles on public roads in an amount necessary to recover all costs reasonably incurred by the department.

Approved _____, 2014

Governor