

Introduced by Senator Gaines

January 28, 2013

An act to amend Section 1704 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 136, as introduced, Gaines. Insurance: brokers and agents: notice of appointment.

Existing law prohibits any person acting as a licensee from acting as an agent of an insurer unless the insurer has filed with the Insurance Commissioner a notice of appointment, as specified. Existing law also requires that specified agents acting in the capacity of an insurance solicitor have filed on his or her behalf with the commissioner a notice of appointment, as specified. Existing law requires that each appointment, by its terms, continue in force until the occurrence of a specified event.

This bill would make technical, nonsubstantive changes to that provision.

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

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

1 SECTION 1. Section 1704 of the Insurance Code is amended
2 to read:
3 1704. (a) ~~Any~~A person acting as a licensee under this chapter
4 shall not act as an agent of an insurer unless the insurer has filed
5 with the commissioner a notice of appointment, executed by the
6 insurer, appointing the licensee as the insurer's agent. Every

1 property broker-agent, casualty broker-agent, personal lines
2 broker-agent, or limited lines automobile insurance agent acting
3 in the capacity of an insurance solicitor shall have filed on his or
4 her behalf with the commissioner a notice executed by an insurance
5 agent or insurance broker appointing and agreeing to employ the
6 solicitor as an employee within this state. Additional notices of
7 appointment may be filed by other insurers before the license is
8 issued and thereafter as long as the license remains in force. The
9 authority to transact insurance given to a licensee by an insurer,
10 property broker-agent, casualty broker-agent, personal lines
11 broker-agent, or limited lines automobile insurance agent, as the
12 case may be, by appointment shall be effective as of the date the
13 notice of appointment is signed. That authority to transact shall
14 apply to transactions occurring after that date and for the purpose
15 of determining the insurer's, property broker-agent's, casualty
16 broker-agent's, personal lines broker-agent's, or limited lines
17 automobile insurance agent's liability for acts of the appointed
18 licensee. No notice of appointment of a life agent, property
19 broker-agent, casualty broker-agent, personal lines broker-agent,
20 limited lines automobile insurance agent, or travel insurance agent
21 shall be filed under this subdivision unless the licensee being
22 appointed has consented to that filing. Each appointment made
23 under this subdivision shall, by its terms, continue in force until:

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

26 (2) The filing of a notice of termination by the insurer or
27 employing property broker-agent or casualty broker-agent, or by
28 the appointed life agent, property broker-agent, casualty
29 broker-agent, travel insurance agent, or insurance solicitor.

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

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

4 (d) A property broker-agent or a casualty broker-agent
5 appointing an insurance solicitor pursuant to this section, if a
6 natural person, shall be the holder of a permanent license to act as
7 such a broker-agent or the holder of a certificate of convenience
8 so to act issued pursuant to either subdivision (a) or (b) of Section
9 1685. If the property broker-agent or the casualty broker-agent is
10 an organization, it shall be the holder of a permanent license.

11 (e) The filing of an incomplete or deficient action notice with
12 the department shall require the filing of an amended, complete
13 action notice, together with the payment of the fee therefor
14 specified in subdivision (l) of Section 1751.

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

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