

AMENDED IN SENATE MAY 19, 2015
AMENDED IN ASSEMBLY APRIL 20, 2015
AMENDED IN ASSEMBLY APRIL 6, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1515

Introduced by Committee on Insurance (Daly (Chair), Calderon, Cooley, Cooper, Dababneh, Frazier, Gatto, Gonzalez, Mayes, and Rodriguez)

March 5, 2015

An act to amend Sections ~~510, 739.3, 742.34, 790.034, 1725.5, 922.41, 1729.2, 1764.1,~~ 1861.02, 1861.025, 10111.2, 10127.13, ~~10169, 10192.18,~~ 10232.3, ~~10233.5,~~ 10235.35, 12418.4, ~~12820,~~ and 12921 of, *to amend, repeal, and add Sections 510, 742.34, 790.034, 1725.5, 1764.1, 10169, 10192.18, and 12820 of,* and to repeal Section 10233.9 of, the Insurance Code, and to amend Section 1299.04 of the Penal Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1515, as amended, Committee on Insurance. Insurance.

(1) Existing law requires certain insurance disclosures in various circumstances, including, but not limited to, when a life or disability insurance policy or certificate of coverage is first issued or delivered to a new insured or policyholder, when an employer obtains coverage from a multiple employer welfare arrangement, when a claim is up for settlement, and when a vehicle service contract form is offered.

This bill, *commencing January 1, 2017*, would generally require those disclosures to also include the Department of Insurance's Internet Web site.

(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. Existing law requires the filing of an RBC report by a life or health insurer if the insurer has a Total Adjusted Capital that is greater than or equal to its Company Action Level RBC but the Total Adjusted Capital is less than the product of its Authorized Control Level RBC and 2.5.

This bill would require the RBC report if the Total Adjusted Capital is less than the product of its Authorized Control Level RBC and 3.0.

(3) *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, until January 1, 2016, 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, as specified.*

This bill would extend the above-described credit allowed for a domestic insurer until January 1, 2021.

(4) *Existing law provides requirements for a licensee to include certain information on a business card.*

Commencing July 1, 2016, this bill would modify the requirements.

~~(3)~~

(5) Existing law provides requirements for various written insurance-related documents, including, among other things, ~~the requirement on a licensee to include certain information on a business card~~, the requirement on all individual life insurance policies and individual annuity contracts to be in certain ~~font~~, *font* and an outline of coverage for long-term care insurance policies.

This bill would modify the requirements with respect to those written documents, as specified.

~~(4)~~

(6) Existing law requires an applicant or licensee to update his or her application if background information that was provided in the application for a license changes.

This bill would expand the definition of a license to include, among others, title insurance.

~~(5)~~

(7) This bill would make technical, nonsubstantive changes to correct obsolete cross-references and would delete obsolete provisions.

~~(6)~~

(8) Existing law, governing life and disability insurance, provides, among other things, that the only measure of insurer liability and damage is the sum payable to the insured in the manner and at the times as provided in the policy. Existing law requires, in addition, if any insurer fails to pay any benefits under a policy of disability income insurance, as defined, within 30 calendar days after the insurer has received all information needed to determine liability and has determined that liability exists, any delayed payment to bear interest, as specified.

This bill would specify that the above requirement to pay interest does not apply to health insurance, as defined.

~~(7) Existing law requires an outline of coverage to be delivered to a prospective applicant for long-term care insurance at the time of initial solicitation. Existing law specifies the form for the outline of coverage and requires the form to state that the policy provides coverage for insureds diagnosed with Alzheimer's disease, organic disorders, or related degenerative and dementing illnesses.~~

~~This bill would require the form to state that the policy provides coverage for insureds for all mental illnesses.~~

~~(8)~~

(9) Existing law provides that any insurer offering long-term care insurance shall provide to the Department of Insurance a copy of the specimen individual policy form or group master policy and certificate forms, corresponding outline of coverage, and representative advertising materials to be used in the state.

This bill would eliminate that requirement.

~~(9)~~

(10) Existing law provides various procedural rights for, and requirements of, a title insurance representative applicant.

This bill would add the requirement to immediately notify the commissioner, using an approved method, of any change in email, other personal information, or other background information.

~~(10)~~

(11) Existing law requires the Insurance Commissioner to perform all duties imposed upon him or her by the Insurance Code and other laws regulating the business of insurance in this state and to enforce the execution of those provisions and laws. In an administrative action to enforce the Insurance Code and other laws regulating the business

of insurance in this state, any settlement is subject to various requirements, including that the commissioner may delegate the power to negotiate the terms and conditions of a settlement, but shall not delegate the power to approve the settlement.

This bill would authorize the commissioner to delegate the power to *negotiate a settlement to designate deputy commissioners, and to delegate the power to* approve settlements that do not involve an insurer, a managing general agent or production agent that manages the business of an insurer, a title company, a home protection company, an insurance adjuster whose claims practices are at issue, and an insurance agent or broker, or an insurance agent or broker applicant, who has allegedly engaged in theft, fraud, or the misappropriation of premium or other funds in an amount that exceeds \$50,000.

(11)

(12) Existing law requires a licensed bail agent, bail permittee, or bail solicitor who engages, in the arrest of a defendant to satisfy specified requirements, including, among other things, the completion of 20 hours of classroom education pertinent to the duties and responsibilities of a bail licensee.

This bill would require a bail fugitive recovery person licensed after December 31, 2012, to have at least 20 hours of classroom prelicensing education, and a bail fugitive recovery person licensed between January 1, 1994, and December 31, 2012, to have at least 12 hours of classroom prelicensing education. The bill would provide that a person licensed prior to January 1, 1994, has no prelicensing education requirement.

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 510 of the Insurance Code is amended~~
 2 ~~to read:~~
 3 ~~510. Whenever a policy of insurance specified in Section 660~~
 4 ~~or 675, a policy of life insurance as defined in Section 101, a policy~~
 5 ~~of disability insurance as defined in Section 106, or a certificate~~
 6 ~~of coverage as defined in Section 10270.6, is first issued to or~~
 7 ~~delivered to a new insured or a new policyholder in this state, the~~
 8 ~~insurer shall include a written disclosure containing the name,~~
 9 ~~address, toll-free telephone number, and Internet Web site of the~~
 10 ~~unit within the Department of Insurance that deals with consumer~~

1 ~~affairs. The telephone number shall be the same as that provided~~
2 ~~to consumers under Section 12921.1. The disclosure shall be~~
3 ~~printed in large, boldface type.~~

4 ~~The disclosure shall also contain the address and customer~~
5 ~~service telephone number of the insurer, or the address and~~
6 ~~customer service telephone number of the agent or broker of record,~~
7 ~~or all of those addresses and telephone numbers. All addresses and~~
8 ~~telephone numbers for the insurer or the agent or broker of record~~
9 ~~shall be prominently displayed, in boldfaced type. The disclosure~~
10 ~~shall also contain a statement that the Department of Insurance~~
11 ~~should be contacted only after discussions with the insurer, or its~~
12 ~~agent or other representative, or both, have failed to produce a~~
13 ~~satisfactory resolution to the problem. If the policy or certificate~~
14 ~~was issued or delivered by an agent or broker, the disclosure shall~~
15 ~~specifically advise the insured to contact his or her agent or broker~~
16 ~~for assistance.~~

17 *SECTION 1. Section 510 of the Insurance Code is amended to*
18 *read:*

19 510. (a) Whenever a policy of insurance specified in Section
20 660 or 675, a policy of life insurance as defined in Section 101, a
21 policy of disability insurance as defined in Section 106, or a
22 certificate of coverage as defined in Section 10270.6, is first issued
23 to or delivered to a new insured or a new policyholder in this state,
24 the insurer shall include a written disclosure containing the name,
25 address, and toll-free telephone number of the unit within the
26 Department of Insurance that deals with consumer affairs. The
27 telephone number shall be the same as that provided to consumers
28 under Section 12921.1. The disclosure shall be printed in large,
29 boldface type.

30 The disclosure shall also contain the address and customer
31 service telephone number of the insurer, or the address and
32 customer service telephone number of the agent or broker of record,
33 or all of those addresses and telephone numbers. All addresses and
34 telephone numbers for the insurer or the agent or broker of record
35 shall be prominently displayed, in boldfaced type. The disclosure
36 shall also contain a statement that the Department of Insurance
37 should be contacted only after discussions with the insurer, or its
38 agent or other representative, or both, have failed to produce a
39 satisfactory resolution to the problem. If the policy or certificate
40 was issued or delivered by an agent or broker, the disclosure shall

1 specifically advise the insured to contact his or her agent or broker
2 for assistance.

3 *(b) This section shall remain in effect only until January 1, 2017,*
4 *and as of that date is repealed, unless a later enacted statute, that*
5 *is enacted before January 1, 2017, deletes or extends that date.*

6 *SEC. 2. Section 510 is added to the Insurance Code, to read:*

7 *510. (a) Whenever a policy of insurance specified in Section*
8 *660 or 675, a policy of life insurance as defined in Section 101, a*
9 *policy of disability insurance as defined in Section 106, or a*
10 *certificate of coverage as defined in Section 10270.6, is first issued*
11 *to or delivered to a new insured or a new policyholder in this state,*
12 *the insurer shall include a written disclosure containing the name,*
13 *address, toll-free telephone number, and Internet Web site of the*
14 *unit within the Department of Insurance that deals with consumer*
15 *affairs. The telephone number shall be the same as that provided*
16 *to consumers under Section 12921.1. The disclosure shall be*
17 *printed in large, boldface type.*

18 *The disclosure shall also contain the address and customer*
19 *service telephone number of the insurer, or the address and*
20 *customer service telephone number of the agent or broker of*
21 *record, or all of those addresses and telephone numbers. All*
22 *addresses and telephone numbers for the insurer or the agent or*
23 *broker of record shall be prominently displayed, in boldfaced type.*
24 *The disclosure shall also contain a statement that the Department*
25 *of Insurance should be contacted only after discussions with the*
26 *insurer, or its agent or other representative, or both, have failed*
27 *to produce a satisfactory resolution to the problem. If the policy*
28 *or certificate was issued or delivered by an agent or broker, the*
29 *disclosure shall specifically advise the insured to contact his or*
30 *her agent or broker for assistance.*

31 *(b) This section shall become operative on January 1, 2017.*

32 ~~SEC. 2.~~

33 *SEC. 3. Section 739.3 of the Insurance Code is amended to*
34 *read:*

35 *739.3. (a) “Company Action Level Event” means any of the*
36 *following events:*

37 *(1) The filing of an RBC Report by an insurer that indicates any*
38 *of the following:*

1 (A) The insurer's Total Adjusted Capital is greater than or equal
2 to its Regulatory Action Level RBC but less than its Company
3 Action Level RBC.

4 (B) If a life or health insurer, the insurer has Total Adjusted
5 Capital that is greater than or equal to its Company Action Level
6 RBC but less than the product of its Authorized Control Level
7 RBC and 3.0, and has a negative trend.

8 (C) If a property and casualty insurer, the insurer has Total
9 Adjusted Capital that is greater than or equal to its Company Action
10 Level RBC but less than the product of its Authorized Control
11 Level RBC and 3.0, and triggers the trend test determined in
12 accordance with the trend test calculation included in the Property
13 and Casualty RBC instructions.

14 (2) The notification by the commissioner to the insurer of an
15 Adjusted RBC Report that indicates the event in paragraph (1),
16 provided that the insurer does not challenge the Adjusted RBC
17 Report under Section 739.7.

18 (3) If the insurer challenges, under Section 739.7, an Adjusted
19 RBC Report that indicates the event in paragraph (1), the
20 notification by the commissioner to the insurer that the
21 commissioner has, after a hearing, rejected the insurer's challenge.

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

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

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

30 (3) Provide projections of the insurer's financial results in the
31 current year and at least the four succeeding years, both in the
32 absence of proposed corrective actions and giving effect to the
33 proposed corrective actions, including projections of statutory
34 operating income, net income, capital, or surplus, or a combination.
35 The projections for both new and renewal business may include
36 separate projections for each major line of business and separately
37 identify each significant income, expense, and benefit component.

38 (4) Identify the key assumptions impacting the insurer's
39 projections and the sensitivity of the projections to the assumptions.

1 (5) Identify the quality of, and problems associated with, the
2 insurer's business, including, but not limited to, its assets,
3 anticipated business growth and associated surplus strain,
4 extraordinary exposure to risk, mix of business, and use of
5 reinsurance in each case, if any.

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

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

8 (2) If the insurer challenges an Adjusted RBC Report pursuant
9 to Section 739.7, within 45 days after notification to the insurer
10 that the commissioner has, after a hearing, rejected the insurer's
11 challenge.

12 (d) Within 60 days after the submission by an insurer of an RBC
13 Plan to the commissioner, the commissioner shall notify the insurer
14 whether the RBC Plan shall be implemented or is, in the judgment
15 of the commissioner, unsatisfactory. If the commissioner
16 determines that the RBC Plan is unsatisfactory, the notification to
17 the insurer shall set forth the reasons for the determination, and
18 may set forth proposed revisions that will render the RBC Plan
19 satisfactory, in the judgment of the commissioner. Upon
20 notification from the commissioner, the insurer shall prepare a
21 Revised RBC Plan, which may incorporate by reference revisions
22 proposed by the commissioner, and shall submit the Revised RBC
23 Plan to the commissioner as follows:

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

25 (2) If the insurer challenges the notification from the
26 commissioner under Section 739.7, within 45 days after a
27 notification to the insurer that the commissioner has, after a
28 hearing, rejected the insurer's challenge.

29 (e) In the event of a notification by the commissioner to an
30 insurer that the insurer's RBC Plan or Revised RBC Plan is
31 unsatisfactory, the commissioner may, at his or her discretion,
32 subject to the insurer's right to a hearing under Section 739.7,
33 specify in the notification that the notification constitutes a
34 Regulatory Action Level Event.

35 (f) Every domestic insurer that files an RBC Plan or Revised
36 RBC Plan with the commissioner shall file a copy of the RBC Plan
37 or Revised RBC Plan with the insurance commissioner in any state
38 in which the insurer is authorized to do business if both of the
39 following apply:

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

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

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

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

11 ~~SEC. 3. Section 742.34 of the Insurance Code is amended to~~
12 ~~read:~~

13 ~~742.34. (a) The following notice shall be provided to~~
14 ~~employers and employees who obtain coverage from a multiple~~
15 ~~employer welfare arrangement:~~

16
17 ~~“NOTICE~~

18
19 ~~(A) THE MULTIPLE EMPLOYER WELFARE~~
20 ~~ARRANGEMENT IS NOT AN INSURANCE COMPANY AND~~
21 ~~DOES NOT PARTICIPATE IN ANY OF THE GUARANTEE~~
22 ~~FUNDS CREATED BY CALIFORNIA LAW. THEREFORE,~~
23 ~~THESE FUNDS WILL NOT PAY YOUR CLAIMS OR~~
24 ~~PROTECT YOUR ASSETS IF A MULTIPLE EMPLOYER~~
25 ~~WELFARE ARRANGEMENT BECOMES INSOLVENT AND~~
26 ~~IS UNABLE TO MAKE PAYMENTS AS PROMISED.~~

27 ~~(B) THE HEALTH CARE BENEFITS THAT YOU HAVE~~
28 ~~PURCHASED OR ARE APPLYING TO PURCHASE ARE~~
29 ~~BEING ISSUED BY A MULTIPLE EMPLOYER WELFARE~~
30 ~~ARRANGEMENT THAT IS LICENSED BY THE STATE OF~~
31 ~~CALIFORNIA.~~

32 ~~(C) FOR ADDITIONAL INFORMATION ABOUT THE~~
33 ~~MULTIPLE EMPLOYER WELFARE ARRANGEMENT YOU~~
34 ~~SHOULD ASK QUESTIONS OF YOUR TRUST~~
35 ~~ADMINISTRATOR OR YOU MAY CONTACT THE~~
36 ~~CALIFORNIA DEPARTMENT OF INSURANCE AT _____.”~~

37 ~~(b) Each multiple employer welfare arrangement should include~~
38 ~~the department’s current “800” consumer service telephone number~~
39 ~~and Internet Web site address in the blank provided in paragraph~~
40 ~~(C) of this notice.~~

1 SEC. 4.— Section 790.034 of the Insurance Code is amended to
2 read:

3 790.034.— (a) Regulations adopted by the commissioner
4 pursuant to this article that relate to the settlement of claims shall
5 take into consideration settlement practices by classes of insurers.

6 (b) (1) Upon receiving notice of a claim, every insurer shall
7 immediately, but no more than 15 calendar days after receipt of
8 the claim, provide the insured with a legible reproduction of
9 subdivisions (h) and (i) of Section 790.03 along with a written
10 notice containing the following language in at least 10-point type:

11
12 “In addition to Section 790.03 of the Insurance Code, Fair Claims
13 Settlement Practices Regulations govern how insurance claims
14 must be processed in this state. These regulations are available at
15 the Department of Insurance Internet Web site,
16 www.insurance.ca.gov, or by calling the department’s consumer
17 information line at 1-800-927-HELP(4357). You may also obtain
18 a copy of this law and these regulations free of charge from this
19 insurer.”

20
21 (2) Every insurer shall provide, when requested orally or in
22 writing by an insured, a legible reproduction of Section 790.03 of
23 the Insurance Code and copies of Sections 2695.5, 2695.7, 2695.8,
24 and 2695.9 of Subchapter 7.5 of Chapter 5 of Title 10 of the
25 California Code of Regulations, unless the regulations are
26 inapplicable to that class of insurer. This law and these regulations
27 shall be provided to the insured within 15 calendar days of request.

28 (3) The provisions of this subdivision shall apply to all insurers
29 except for those that are licensed pursuant to Chapter 1
30 (commencing with Section 12340) of Part 6 of Division 2, with
31 respect to policies and endorsements described in Section 790.031.

32 SEC. 5.— Section 1725.5 of the Insurance Code is amended to
33 read:

34 1725.5.— (a) For purposes of Sections 32.5, 1625, 1626, 1724.5,
35 1758.1, 1765, 1800, 14020, 14021, and 15006, every licensee shall
36 prominently affix, type, or cause to be printed on business cards,
37 written price quotations for insurance products, and print
38 advertisements distributed exclusively in this state for insurance
39 products its license number in type the same size as any indicated
40 telephone number, address, or fax number. If the licensee maintains

1 more than one organization license, one of the organization license
2 numbers is sufficient for compliance with this section.

3 ~~(b) Effective January 1, 2005, for purposes of Sections 32.5,~~
4 ~~1625, 1626, 1724.5, 1758.1, 1765, 14020, 14021, and 15006, every~~
5 ~~licensee shall prominently affix, type, or cause to be printed on~~
6 ~~business cards, written price quotations for insurance products,~~
7 ~~and print advertisements, distributed in this state for insurance~~
8 ~~products, the word "Insurance" in type size that is at least as large~~
9 ~~as the smallest telephone number or 12-point type, whichever is~~
10 ~~larger.~~

11 ~~(c) In the case of transactors, or agent and broker licensees, who~~
12 ~~are classified for licensing purposes as solicitors, working as~~
13 ~~exclusive employees of motor clubs, organizational licensee~~
14 ~~numbers shall be used.~~

15 ~~(d) Any person in violation of this section shall be subject to a~~
16 ~~fine levied by the commissioner in the amount of two hundred~~
17 ~~dollars (\$200) for the first offense, five hundred dollars (\$500) for~~
18 ~~the second offense, and one thousand dollars (\$1,000) for the third~~
19 ~~and subsequent offenses. The penalty shall not exceed one thousand~~
20 ~~dollars (\$1,000) for any one offense. These fines shall be deposited~~
21 ~~into the Insurance Fund.~~

22 ~~(e) A separate penalty shall not be imposed upon each piece of~~
23 ~~printed material that fails to conform to the requirements of this~~
24 ~~section.~~

25 ~~(f) If the commissioner finds that the failure of a licensee to~~
26 ~~comply with the provisions of subdivision (a) or (b) is due to~~
27 ~~reasonable cause or circumstance beyond the licensee's control,~~
28 ~~and occurred notwithstanding the exercise of ordinary care and in~~
29 ~~the absence of willful neglect, the licensee may be relieved of the~~
30 ~~penalty in subdivision (d).~~

31 ~~(g) A licensee seeking to be relieved of the penalty in~~
32 ~~subdivision (d) shall file with the department a statement with~~
33 ~~supporting documents setting forth the facts upon which the~~
34 ~~licensee bases its claims for relief.~~

35 ~~(h) This section does not apply to any person or entity that is~~
36 ~~not currently required to be licensed by the department or that is~~
37 ~~exempted from licensure.~~

38 ~~(i) This section does not apply to general advertisements of~~
39 ~~motor clubs that merely list insurance products as one of several~~

1 ~~services offered by the motor club, and do not provide any details~~
2 ~~of the insurance products.~~

3 ~~(j) This section does not apply to life insurance policy~~
4 ~~illustrations required by Chapter 5.5 (commencing with Section~~
5 ~~10509.950) of Part 2 of Division 2 or to life insurance cost indexes~~
6 ~~required by Chapter 5.6 (commencing with Section 10509.970)~~
7 ~~of Part 2 of Division 2.~~

8 ~~(k) This section shall become operative January 1, 1997.~~

9 *SEC. 4. Section 742.34 of the Insurance Code is amended to*
10 *read:*

11 742.34. (a) The following notice shall be provided to
12 employers and employees who obtain coverage from a multiple
13 employer welfare arrangement:
14

15
16 NOTICE "NOTICE
17

18 (A) THE MULTIPLE EMPLOYER WELFARE
19 ARRANGEMENT IS NOT AN INSURANCE COMPANY AND
20 DOES NOT PARTICIPATE IN ANY OF THE GUARANTEE
21 FUNDS CREATED BY CALIFORNIA LAW. THEREFORE,
22 THESE FUNDS WILL NOT PAY YOUR CLAIMS OR
23 PROTECT YOUR ASSETS IF A MULTIPLE EMPLOYER
24 WELFARE ARRANGEMENT BECOMES INSOLVENT AND
25 IS UNABLE TO MAKE PAYMENTS AS PROMISED.

26 (B) THE HEALTH CARE BENEFITS THAT YOU HAVE
27 PURCHASED OR ARE APPLYING TO PURCHASE ARE
28 BEING ISSUED BY A MULTIPLE EMPLOYER WELFARE
29 ARRANGEMENT THAT IS LICENSED BY THE STATE OF
30 CALIFORNIA.

31 (C) FOR ADDITIONAL INFORMATION ABOUT THE
32 MULTIPLE EMPLOYER WELFARE ARRANGEMENT YOU
33 SHOULD ASK QUESTIONS OF YOUR TRUST
34 ADMINISTRATOR OR YOU MAY CONTACT THE
35 CALIFORNIA DEPARTMENT OF INSURANCE AT _____.
36 _____."

37
38 (b) Each multiple employer welfare arrangement should include
39 the department's current "800" consumer service telephone number
40 in the blank provided in paragraph (C) of this notice.

1 (c) *This section shall remain in effect only until January 1, 2017,*
2 *and as of that date is repealed, unless a later enacted statute, that*
3 *is enacted before January 1, 2017, deletes or extends that date.*

4 SEC. 5. *Section 742.34 is added to the Insurance Code, to*
5 *read:*

6 742.34. (a) *The following notice shall be provided to employers*
7 *and employees who obtain coverage from a multiple employer*
8 *welfare arrangement:*

9
10 “NOTICE

11
12 (A) *THE MULTIPLE EMPLOYER WELFARE ARRANGEMENT*
13 *IS NOT AN INSURANCE COMPANY AND DOES NOT*
14 *PARTICIPATE IN ANY OF THE GUARANTEE FUNDS CREATED*
15 *BY CALIFORNIA LAW. THEREFORE, THESE FUNDS WILL*
16 *NOT PAY YOUR CLAIMS OR PROTECT YOUR ASSETS IF A*
17 *MULTIPLE EMPLOYER WELFARE ARRANGEMENT BECOMES*
18 *INSOLVENT AND IS UNABLE TO MAKE PAYMENTS AS*
19 *PROMISED.*

20 (B) *THE HEALTH CARE BENEFITS THAT YOU HAVE*
21 *PURCHASED OR ARE APPLYING TO PURCHASE ARE BEING*
22 *ISSUED BY A MULTIPLE EMPLOYER WELFARE*
23 *ARRANGEMENT THAT IS LICENSED BY THE STATE OF*
24 *CALIFORNIA.*

25 (C) *FOR ADDITIONAL INFORMATION ABOUT THE*
26 *MULTIPLE EMPLOYER WELFARE ARRANGEMENT YOU*
27 *SHOULD ASK QUESTIONS OF YOUR TRUST ADMINISTRATOR*
28 *OR YOU MAY CONTACT THE CALIFORNIA DEPARTMENT*
29 *OF INSURANCE AT _____.”*

30 (b) *Each multiple employer welfare arrangement should include*
31 *the department’s current “800” consumer service telephone*
32 *number and Internet Web site in the blank provided in paragraph*
33 *(C) of this notice.*

34 (c) *This section shall become operative on January 1, 2017.*

35 SEC. 6. *Section 790.034 of the Insurance Code is amended to*
36 *read:*

37 790.034. (a) *Regulations adopted by the commissioner*
38 *pursuant to this article that relate to the settlement of claims shall*
39 *take into consideration settlement practices by classes of insurers.*

1 (b) (1) Upon receiving notice of a claim, every insurer shall
2 immediately, but no more than 15 calendar days after receipt of
3 the claim, provide the insured with a legible reproduction of
4 subdivisions (h) and (i) of Section 790.03 along with a written
5 notice containing the following language in at least 10-point type:

6
7 “In addition to Section 790.03 of the Insurance Code, Fair Claims
8 Settlement Practices Regulations govern how insurance claims
9 must be processed in this state. These regulations are available at
10 the Department of Insurance Internet Web site,
11 www.insurance.ca.gov. You may also obtain a copy of this law
12 and these regulations free of charge from this insurer.”

13
14 (2) Every insurer shall provide, when requested orally or in
15 writing by an insured, a legible reproduction of Section 790.03 of
16 the Insurance Code and copies of Sections 2695.5, 2695.7, 2695.8,
17 and 2695.9 of Subchapter 7.5 of Chapter 5 of Title 10 of the
18 California Code of Regulations, unless the regulations are
19 inapplicable to that class of insurer. This law and these regulations
20 shall be provided to the insured within 15 calendar days of request.

21 (3) The provisions of this subdivision shall apply to all insurers
22 except for those that are licensed pursuant to Chapter 1
23 (commencing with Section 12340) of Part 6 of Division 2, with
24 respect to policies and endorsements described in Section 790.031.

25 (c) *This section shall remain in effect only until January 1, 2017,*
26 *and as of that date is repealed, unless a later enacted statute, that*
27 *is enacted before January 1, 2017, deletes or extends that date.*

28 SEC. 7. *Section 790.034 is added to the Insurance Code, to*
29 *read:*

30 790.034. (a) *Regulations adopted by the commissioner*
31 *pursuant to this article that relate to the settlement of claims shall*
32 *take into consideration settlement practices by classes of insurers.*

33 (b) (1) *Upon receiving notice of a claim, every insurer shall*
34 *immediately, but no more than 15 calendar days after receipt of*
35 *the claim, provide the insured with a legible reproduction of*
36 *subdivisions (h) and (i) of Section 790.03 along with a written*
37 *notice containing the following language in at least 10-point type:*

38
39 “*In addition to Section 790.03 of the Insurance Code, Fair*
40 *Claims Settlement Practices Regulations govern how insurance*

1 *claims must be processed in this state. These regulations are*
2 *available at the Department of Insurance Internet Web site,*
3 *www.insurance.ca.gov, or by calling the department's consumer*
4 *information line at 1-800-927-HELP(4357). You may also obtain*
5 *a copy of this law and these regulations free of charge from this*
6 *insurer."*

7

8 (2) *Every insurer shall provide, when requested orally or in*
9 *writing by an insured, a legible reproduction of Section 790.03 of*
10 *the Insurance Code and copies of Sections 2695.5, 2695.7, 2695.8,*
11 *and 2695.9 of Subchapter 7.5 of Chapter 5 of Title 10 of the*
12 *California Code of Regulations, unless the regulations are*
13 *inapplicable to that class of insurer. This law and these regulations*
14 *shall be provided to the insured within 15 calendar days of request.*

15 (3) *The provisions of this subdivision shall apply to all insurers*
16 *except for those that are licensed pursuant to Chapter 1*
17 *(commencing with Section 12340) of Part 6 of Division 2, with*
18 *respect to policies and endorsements described in Section 790.031.*

19 (c) *This section shall become operative on January 1, 2017.*

20 SEC. 8. *Section 922.41 of the Insurance Code is amended to*
21 *read:*

22 922.41. (a) *Credit shall be allowed a domestic insurer when*
23 *the reinsurance is ceded to an assuming insurer that has been*
24 *certified by the commissioner as a reinsurer in this state and secures*
25 *its obligations in accordance with the requirements of this section.*
26 *Credit shall be allowed at all times for which statutory financial*
27 *statement credit for reinsurance is claimed under this section. The*
28 *credit allowed shall be based upon the security held by or on behalf*
29 *of the ceding insurer in accordance with a rating assigned to the*
30 *certified reinsurer by the commissioner. The security shall be in*
31 *a form consistent with this section, any regulations promulgated*
32 *by the commissioner, and Section 922.5.*

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

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

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

1 commissioner, but no less than two hundred fifty million dollars
2 (\$250,000,000) calculated in accordance with paragraph (4) of
3 subdivision (f) of this section or Section 922.5. This requirement
4 may also be satisfied by an association including incorporated and
5 individual unincorporated underwriters having minimum capital
6 and surplus equivalents (net of liabilities) of at least two hundred
7 fifty million dollars (\$250,000,000) and a central fund containing
8 a balance of at least two hundred fifty million dollars
9 (\$250,000,000).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (F) Regulatory actions against the certified reinsurer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 10 Ratings security required
- 11 Secure - 1: ~~0%~~ 0 percent
- 12 Secure - 2: ~~10%~~ 10 percent
- 13 Secure - 3: ~~20%~~ 20 percent
- 14 Secure - 4: ~~50%~~ 50 percent
- 15 Secure - 5: ~~75%~~ 75 percent
- 16 Vulnerable - 6: ~~100%~~ 100 percent

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

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

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

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

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

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

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

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

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

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

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

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

9 (A) Line 1: Fire.

10 (B) Line 2: Allied lines.

11 (C) Line 3: Farmowners' multiple peril.

12 (D) Line 4: Homeowners' multiple peril.

13 (E) Line 5: Commercial multiple peril.

14 (F) Line 9: Inland marine.

15 (G) Line 12: Earthquake.

16 (H) Line 21: Auto physical damage.

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

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

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

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

9 (l) This section shall remain in effect only until January 1, ~~2016,~~
10 2021 and as of that date is repealed, unless a later enacted statute,
11 that is enacted before January 1, ~~2016,~~ 2021 deletes or extends
12 that date.

13 *SEC. 9. Section 1725.5 of the Insurance Code is amended to*
14 *read:*

15 1725.5. (a) For purposes of Sections 32.5, 1625, 1626, 1724.5,
16 1758.1, 1765, 1800, 14020, 14021, and 15006, every licensee shall
17 prominently affix, type, or cause to be printed on business cards,
18 written price quotations for insurance products, and print
19 advertisements distributed exclusively in this state for insurance
20 products its license number in type the same size as any indicated
21 telephone number, address, or fax number. If the licensee maintains
22 more than one organization license, one of the organization license
23 numbers is sufficient for compliance with this section.

24 (b) Effective January 1, 2005, for purposes of Sections 32.5,
25 1625, 1626, 1724.5, 1758.1, 1765, 1800, 14020, 14021, and 15006,
26 every licensee shall prominently affix, type, or cause to be printed
27 on business cards, written price quotations for insurance products,
28 and print advertisements, distributed in this state for insurance
29 products, the word "Insurance" in type size no smaller than the
30 largest indicated telephone number.

31 (c) In the case of transactors, or agent and broker licensees, who
32 are classified for licensing purposes as solicitors, working as
33 exclusive employees of motor clubs, organizational licensee
34 numbers shall be used.

35 (d) Any person in violation of this section shall be subject to a
36 fine levied by the commissioner in the amount of two hundred
37 dollars (\$200) for the first offense, five hundred dollars (\$500) for
38 the second offense, and one thousand dollars (\$1,000) for the third
39 and subsequent offenses. The penalty shall not exceed one thousand

1 dollars (\$1,000) for any one offense. These fines shall be deposited
2 into the Insurance Fund.

3 (e) A separate penalty shall not be imposed upon each piece of
4 printed material that fails to conform to the requirements of this
5 section.

6 (f) If the commissioner finds that the failure of a licensee to
7 comply with the provisions of subdivision (a) or (b) is due to
8 reasonable cause or circumstance beyond the licensee's control,
9 and occurred notwithstanding the exercise of ordinary care and in
10 the absence of willful neglect, the licensee may be relieved of the
11 penalty in subdivision (d).

12 (g) A licensee seeking to be relieved of the penalty in
13 subdivision (d) shall file with the department a statement with
14 supporting documents setting forth the facts upon which the
15 licensee bases its claims for relief.

16 (h) This section does not apply to any person or entity that is
17 not currently required to be licensed by the department or that is
18 exempted from licensure.

19 (i) This section does not apply to general advertisements of
20 motor clubs that merely list insurance products as one of several
21 services offered by the motor club, and do not provide any details
22 of the insurance products.

23 (j) This section does not apply to life insurance policy
24 illustrations required by Chapter 5.5 (commencing with Section
25 10509.950) of Part 2 of Division 2 or to life insurance cost indexes
26 required by Chapter 5.6 (commencing with Section 10509.970)
27 of Part 2 of Division 2.

28 (k) This section shall become operative January 1, 1997.

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

32 *SEC. 10. Section 1725.5 is added to the Insurance Code, to*
33 *read:*

34 *1725.5. (a) For purposes of Sections 32.5, 1625, 1626, 1724.5,*
35 *1758.1, 1765, 1800, 14020, 14021, and 15006, every licensee shall*
36 *prominently affix, type, or cause to be printed on business cards,*
37 *written price quotations for insurance products, and print*
38 *advertisements distributed exclusively in this state for insurance*
39 *products its license number in type the same size as any indicated*
40 *telephone number, address, or fax number. If the licensee maintains*

1 *more than one organization license, one of the organization license*
2 *numbers is sufficient for compliance with this section.*

3 *(b) Effective January 1, 2005, for purposes of Sections 32.5,*
4 *1625, 1626, 1724.5, 1758.1, 1765, 14020, 14021, and 15006, every*
5 *licensee shall prominently affix, type, or cause to be printed on*
6 *business cards, written price quotations for insurance products,*
7 *and print advertisements, distributed in this state for insurance*
8 *products, the word “Insurance” in type size that is at least as large*
9 *as the smallest telephone number or 12-point type, whichever is*
10 *larger.*

11 *(c) In the case of transactors, or agent and broker licensees,*
12 *who are classified for licensing purposes as solicitors, working*
13 *as exclusive employees of motor clubs, organizational licensee*
14 *numbers shall be used.*

15 *(d) Any person in violation of this section shall be subject to a*
16 *fine levied by the commissioner in the amount of two hundred*
17 *dollars (\$200) for the first offense, five hundred dollars (\$500) for*
18 *the second offense, and one thousand dollars (\$1,000) for the third*
19 *and subsequent offenses. The penalty shall not exceed one thousand*
20 *dollars (\$1,000) for any one offense. These fines shall be deposited*
21 *into the Insurance Fund.*

22 *(e) A separate penalty shall not be imposed upon each piece of*
23 *printed material that fails to conform to the requirements of this*
24 *section.*

25 *(f) If the commissioner finds that the failure of a licensee to*
26 *comply with the provisions of subdivision (a) or (b) is due to*
27 *reasonable cause or circumstance beyond the licensee’s control,*
28 *and occurred notwithstanding the exercise of ordinary care and*
29 *in the absence of willful neglect, the licensee may be relieved of*
30 *the penalty in subdivision (d).*

31 *(g) A licensee seeking to be relieved of the penalty in subdivision*
32 *(d) shall file with the department a statement with supporting*
33 *documents setting forth the facts upon which the licensee bases*
34 *its claims for relief.*

35 *(h) This section does not apply to any person or entity that is*
36 *not currently required to be licensed by the department or that is*
37 *exempted from licensure.*

38 *(i) This section does not apply to general advertisements of*
39 *motor clubs that merely list insurance products as one of several*

1 *services offered by the motor club, and do not provide any details*
2 *of the insurance products.*

3 *(j) This section does not apply to life insurance policy*
4 *illustrations required by Chapter 5.5 (commencing with Section*
5 *10509.950) of Part 2 of Division 2 or to life insurance cost indexes*
6 *required by Chapter 5.6 (commencing with Section 10509.970) of*
7 *Part 2 of Division 2.*

8 *(k) This section shall become operative July 1, 2016.*

9 ~~SEC. 6.~~

10 *SEC. 11.* Section 1729.2 of the Insurance Code is amended to
11 read:

12 1729.2. (a) An applicant or licensee shall notify the
13 commissioner when any of the background information set forth
14 in this section changes after the application has been submitted or
15 the license has been issued. If the licensee is listed as an endorsee
16 on any business entity license, the licensee shall also provide this
17 notice to any officer, director, or partner listed on that business
18 entity license.

19 (b) A business entity licensee, upon learning of a change in
20 background information pertaining to any unlicensed person listed
21 on its business entity license or application therefor, shall notify
22 the commissioner of that change. The changes subject to this
23 requirement include changes pertaining to any unlicensed officer,
24 director, partner, member, or controlling person, or any other
25 natural person named under the business entity license or in an
26 application therefor.

27 (c) The following definitions apply for the purposes of this
28 section:

29 (1) "License" includes all types of licenses issued by the
30 commissioner pursuant to Chapter 5 (commencing with Section
31 1621), Chapter 5A (commencing with Section 1759), Chapter 6
32 (commencing with Section 1760), Chapter 6.5 (commencing with
33 Section 1781.1), Chapter 7 (commencing with Section 1800), and
34 Chapter 8 (commencing with Section 1831) of Part 2 of Division
35 1, Chapter 1 (commencing with Section 10110) of Part 2 of
36 Division 2, Chapter 4 (commencing with Section 12280) of Part
37 5 of Division 2, Article 8 (commencing with Section 12418) of
38 Chapter 1 of Part 6 of Division 2, and Chapter 1 (commencing
39 with Section 14000) and Chapter 2 (commencing with Section
40 15000) of Division 5.

1 (2) “Background information” means any of the following: a
2 misdemeanor or felony conviction; a filing of felony criminal
3 charges in state or federal court; an administrative action regarding
4 a professional or occupational license; any licensee’s discharge or
5 attempt to discharge, in a personal or organizational bankruptcy
6 proceeding, an obligation regarding any insurance premiums or
7 fiduciary funds owed to any company, including a premium finance
8 company, or managing general agent; and any admission, or
9 judicial finding or determination, of fraud, misappropriation or
10 conversion of funds, misrepresentation, or breach of fiduciary
11 duty.

12 (3) “Applicant” and “licensee” include individual and
13 organization applicants and licensees, and officers, directors,
14 partners, members, and controlling persons (as defined in
15 subdivision (b) of Section 1668.5) of an organization.

16 (d) Notification to the commissioner shall be in writing and
17 shall be sent within 30 days of the date the applicant or licensee
18 learns of the change in background information.

19 (e) The commissioner may adopt regulations necessary or
20 desirable to implement this section.

21 ~~SEC. 7. Section 1764.1 of the Insurance Code is amended to~~
22 ~~read:~~

23 ~~1764.1. (a) (1) Every nonadmitted insurer, in the case of~~
24 ~~insurance to be purchased by a home state insured pursuant to~~
25 ~~Section 1760, and surplus line broker, in the case of any insurance~~
26 ~~with a nonadmitted carrier for a home state insured to be transacted~~
27 ~~by the surplus line broker, shall be responsible to ensure that, at~~
28 ~~the time of accepting an application for an insurance policy, other~~
29 ~~than a renewal of that policy, issued by a nonadmitted insurer, the~~
30 ~~signature of the applicant on the disclosure statement set forth in~~
31 ~~subdivision (b) is obtained. In fulfillment of this responsibility,~~
32 ~~the nonadmitted insurer and the surplus line broker may rely, if it~~
33 ~~is reasonable under all the circumstances to do so, on the disclosure~~
34 ~~statement received from a licensee involved in the transaction as~~
35 ~~prima facie evidence that the disclosure statement and appropriate~~
36 ~~signature from the applicant have been obtained. The surplus line~~
37 ~~broker shall maintain a copy of the signed disclosure statement in~~
38 ~~his or her records for a period of at least five years. These records~~
39 ~~shall be made available to the commissioner and the insured upon~~
40 ~~request. This disclosure shall be signed by the applicant, and is~~

1 not subject to a limited power of attorney agreement between the
 2 applicant and an agent or broker or a surplus line broker. The
 3 disclosure statement shall be in boldface 16-point type on a
 4 freestanding document. In addition, every policy issued by a
 5 nonadmitted insurer and every certificate evidencing the placement
 6 of insurance shall contain, or have affixed to it by the insurer or
 7 surplus line broker, the disclosure statement set forth in subdivision
 8 (b) in boldface 16-point type on the front page of the policy.

9 (2) In a case in which the applicant has not received and
 10 completed the signed disclosure form required by this section, he
 11 or she may cancel the insurance so placed. The cancellation shall
 12 be on a pro rata basis as to premium, and the applicant shall be
 13 entitled to the return of any broker's fees charged for the placement.

14 (b) The following notice shall be provided to home state insureds
 15 and home state insured applicants for insurance as provided by
 16 subdivision (a), and shall be printed in English and in the language
 17 principally used by the surplus line broker and nonadmitted insurer
 18 to advertise, solicit, or negotiate the sale and purchase of surplus
 19 line insurance. The surplus line broker and nonadmitted insurer
 20 shall use the appropriate bracketed language for application and
 21 issued policy disclosures:

22
 23 **“NOTICE:**

24
 25 1. ~~THE INSURANCE POLICY THAT YOU [HAVE~~
 26 ~~PURCHASED] [ARE APPLYING TO PURCHASE] IS BEING~~
 27 ~~ISSUED BY AN INSURER THAT IS NOT LICENSED BY THE~~
 28 ~~STATE OF CALIFORNIA. THESE COMPANIES ARE CALLED~~
 29 ~~“NONADMITTED” OR “SURPLUS LINE” INSURERS.~~

30 2. ~~THE INSURER IS NOT SUBJECT TO THE FINANCIAL~~
 31 ~~SOLVENCY REGULATION AND ENFORCEMENT THAT~~
 32 ~~APPLY TO CALIFORNIA LICENSED INSURERS.~~

33 3. ~~THE INSURER DOES NOT PARTICIPATE IN ANY OF~~
 34 ~~THE INSURANCE GUARANTEE FUNDS CREATED BY~~
 35 ~~CALIFORNIA LAW. THEREFORE, THESE FUNDS WILL~~
 36 ~~NOT PAY YOUR CLAIMS OR PROTECT YOUR ASSETS IF~~
 37 ~~THE INSURER BECOMES INSOLVENT AND IS UNABLE~~
 38 ~~TO MAKE PAYMENTS AS PROMISED.~~

39 4. ~~THE INSURER SHOULD BE LICENSED EITHER AS A~~
 40 ~~FOREIGN INSURER IN ANOTHER STATE IN THE UNITED~~

1 ~~STATES OR AS A NON-UNITED STATES (ALIEN) INSURER.~~
2 ~~YOU SHOULD ASK QUESTIONS OF YOUR INSURANCE~~
3 ~~AGENT, BROKER, OR “SURPLUS LINE” BROKER OR~~
4 ~~CONTACT THE CALIFORNIA DEPARTMENT OF~~
5 ~~INSURANCE AT THE FOLLOWING TOLL-FREE~~
6 ~~TELEPHONE NUMBER _____ OR INTERNET WEB SITE~~
7 ~~WWW.INSURANCE.CA.GOV. ASK WHETHER OR NOT THE~~
8 ~~INSURER IS LICENSED AS A FOREIGN OR NON-UNITED~~
9 ~~STATES (ALIEN) INSURER AND FOR ADDITIONAL~~
10 ~~INFORMATION ABOUT THE INSURER. YOU MAY ALSO~~
11 ~~CONTACT THE NAIC’S INTERNET WEB SITE AT~~
12 ~~WWW.NAIC.ORG.~~

13 ~~5. FOREIGN INSURERS SHOULD BE LICENSED BY A~~
14 ~~STATE IN THE UNITED STATES AND YOU MAY CONTACT~~
15 ~~THAT STATE’S DEPARTMENT OF INSURANCE TO OBTAIN~~
16 ~~MORE INFORMATION ABOUT THAT INSURER.~~

17 ~~6. FOR NON-UNITED STATES (ALIEN) INSURERS, THE~~
18 ~~INSURER SHOULD BE LICENSED BY A COUNTRY~~
19 ~~OUTSIDE OF THE UNITED STATES AND SHOULD BE ON~~
20 ~~THE NAIC’S INTERNATIONAL INSURERS DEPARTMENT~~
21 ~~(IID) LISTING OF APPROVED NONADMITTED~~
22 ~~NON-UNITED STATES INSURERS. ASK YOUR AGENT,~~
23 ~~BROKER, OR “SURPLUS LINE” BROKER TO OBTAIN MORE~~
24 ~~INFORMATION ABOUT THAT INSURER.~~

25 ~~7. CALIFORNIA MAINTAINS A LIST OF APPROVED~~
26 ~~SURPLUS LINE INSURERS. ASK YOUR AGENT OR BROKER~~
27 ~~IF THE INSURER IS ON THAT LIST, OR VIEW THAT LIST~~
28 ~~AT THE INTERNET WEB SITE OF THE CALIFORNIA~~
29 ~~DEPARTMENT OF INSURANCE:~~
30 ~~WWW.INSURANCE.CA.GOV.~~

31 ~~8. IF YOU, AS THE APPLICANT, REQUIRED THAT THE~~
32 ~~INSURANCE POLICY YOU HAVE PURCHASED BE BOUND~~
33 ~~IMMEDIATELY, EITHER BECAUSE EXISTING COVERAGE~~
34 ~~WAS GOING TO LAPSE WITHIN TWO BUSINESS DAYS OR~~
35 ~~BECAUSE YOU WERE REQUIRED TO HAVE COVERAGE~~
36 ~~WITHIN TWO BUSINESS DAYS, AND YOU DID NOT~~
37 ~~RECEIVE THIS DISCLOSURE FORM AND A REQUEST FOR~~
38 ~~YOUR SIGNATURE UNTIL AFTER COVERAGE BECAME~~
39 ~~EFFECTIVE, YOU HAVE THE RIGHT TO CANCEL THIS~~
40 ~~POLICY WITHIN FIVE DAYS OF RECEIVING THIS~~

1 ~~DISCLOSURE. IF YOU CANCEL COVERAGE, THE PREMIUM~~
2 ~~WILL BE PRORATED AND ANY BROKER'S FEE CHARGED~~
3 ~~FOR THIS INSURANCE WILL BE RETURNED TO YOU."~~

4
5 ~~(e) When a contract is issued to an industrial insured, neither~~
6 ~~the nonadmitted insurer nor the surplus line broker is required to~~
7 ~~provide the notice required in this section except on the~~
8 ~~confirmation of insurance, the certificate of placement, or the~~
9 ~~policy, whichever is first provided to the insured, nor is the insurer~~
10 ~~or surplus line broker required to obtain the insured's signature.~~
11 ~~The producer shall ensure that the notice affixed to the confirmation~~
12 ~~of insurance, certificate of placement, or the policy is provided to~~
13 ~~the insured. The producer shall insert the current toll-free telephone~~
14 ~~number of the Department of Insurance as provided in paragraph~~
15 ~~4 of the notice.~~

16 ~~(1) An industrial insured is an insured that does both of the~~
17 ~~following:~~

18 ~~(A) Employs at least 25 employees on average during the prior~~
19 ~~12 months.~~

20 ~~(B) Has aggregate annual premiums for insurance for all risks~~
21 ~~other than workers' compensation and health coverage totaling no~~
22 ~~less than twenty-five thousand dollars (\$25,000) or obtains~~
23 ~~insurance through the services of a full-time employee acting as~~
24 ~~an insurance manager or a continuously retained insurance~~
25 ~~consultant. A "continuously retained insurance consultant" does~~
26 ~~not include: (i) an agent or broker through whom the insurance is~~
27 ~~being placed, (ii) a subagent or subproducer involved in the~~
28 ~~transaction, or (iii) an agent or broker that is a business organization~~
29 ~~employing or contracting with a person mentioned in clauses (i)~~
30 ~~and (ii).~~

31 ~~(2) The surplus line broker shall be responsible for ensuring~~
32 ~~that the applicant is an industrial insured. A surplus line broker~~
33 ~~who reasonably relies on information provided in good faith by~~
34 ~~the applicant, whether directly or through the producer, shall be~~
35 ~~deemed to be in compliance with this requirement.~~

36 ~~(d) For purposes of compliance with the requirement of~~
37 ~~subdivision (a) that the signature of the applicant be obtained, the~~
38 ~~following shall apply:~~

39 ~~(1) If the insurance transaction is not conducted at an in-person,~~
40 ~~face-to-face meeting, the applicant's signature on the disclosure~~

1 form may be transmitted by the applicant to the agent or broker
2 via facsimile or comparable electronic transmittal.

3 ~~(2) In the case of commercial lines coverage, or personal~~
4 ~~insurance coverage subject to Section 675 and any umbrella~~
5 ~~coverage associated therewith, where an applicant requires that~~
6 ~~insurance coverage be bound immediately, either because existing~~
7 ~~coverage will lapse within two business days of the time the~~
8 ~~insurance is bound or because the applicant is required to have~~
9 ~~coverage in place within two business days, and the applicant~~
10 ~~cannot meet in person with the agent or broker to sign the~~
11 ~~disclosure form, the agent or broker may obtain the signature of~~
12 ~~the applicant within five days of binding coverage, provided that~~
13 ~~the applicant may cancel the insurance so placed within five days~~
14 ~~of receiving the disclosure form from the agent or broker. The~~
15 ~~cancellation shall be on a pro rata basis, and the applicant shall be~~
16 ~~entitled to the rescission or return of any broker's fees charged for~~
17 ~~the placement. When a policy is canceled, the broker shall inform~~
18 ~~the applicant that the broker's fee must be returned and that the~~
19 ~~premium must be prorated.~~

20 ~~(e) Notwithstanding subdivision (a), this section shall not apply~~
21 ~~to insurance issued or delivered in this state by a nonadmitted~~
22 ~~Mexican insurer by and through a surplus line broker affording~~
23 ~~coverage exclusively in the Republic of Mexico on property located~~
24 ~~temporarily or permanently in, or operations conducted temporarily~~
25 ~~or permanently within, the Republic of Mexico.~~

26 *SEC. 12. Section 1764.1 of the Insurance Code is amended to*
27 *read:*

28 1764.1. (a) (1) Every nonadmitted insurer, in the case of
29 insurance to be purchased by a home state insured pursuant to
30 Section 1760, and surplus line broker, in the case of any insurance
31 with a nonadmitted carrier for a home state insured to be transacted
32 by the surplus line broker, shall be responsible to ensure that, at
33 the time of accepting an application for an insurance policy, other
34 than a renewal of that policy, issued by a nonadmitted insurer, the
35 signature of the applicant on the disclosure statement set forth in
36 subdivision (b) is obtained. In fulfillment of this responsibility,
37 the nonadmitted insurer and the surplus line broker may rely, if it
38 is reasonable under all the circumstances to do so, on the disclosure
39 statement received from a licensee involved in the transaction as
40 prima facie evidence that the disclosure statement and appropriate

1 signature from the applicant have been obtained. The surplus line
2 broker shall maintain a copy of the signed disclosure statement in
3 his or her records for a period of at least five years. These records
4 shall be made available to the commissioner and the insured upon
5 request. This disclosure shall be signed by the applicant, and is
6 not subject to a limited power of attorney agreement between the
7 applicant and an agent or broker or a surplus line broker. The
8 disclosure statement shall be in boldface 16-point type on a
9 freestanding document. In addition, every policy issued by a
10 nonadmitted insurer and every certificate evidencing the placement
11 of insurance shall contain, or have affixed to it by the insurer or
12 surplus line broker, the disclosure statement set forth in subdivision
13 (b) in boldface 16-point type on the front page of the policy.

14 (2) In a case in which the applicant has not received and
15 completed the signed disclosure form required by this section, he
16 or she may cancel the insurance so placed. The cancellation shall
17 be on a pro rata basis as to premium, and the applicant shall be
18 entitled to the return of any broker's fees charged for the placement.

19 (b) The following notice shall be provided to home state insureds
20 and home state insured applicants for insurance as provided by
21 subdivision (a), and shall be printed in English and in the language
22 principally used by the surplus line broker and nonadmitted insurer
23 to advertise, solicit, or negotiate the sale and purchase of surplus
24 line insurance. The surplus line broker and nonadmitted insurer
25 shall use the appropriate bracketed language for application and
26 issued policy disclosures:

27

28

“NOTICE:

29

30 1. THE INSURANCE POLICY THAT YOU [HAVE
31 PURCHASED] [ARE APPLYING TO PURCHASE] IS BEING
32 ISSUED BY AN INSURER THAT IS NOT LICENSED BY THE
33 STATE OF CALIFORNIA. THESE COMPANIES ARE CALLED
34 “NONADMITTED” OR “SURPLUS LINE” INSURERS.

35 2. THE INSURER IS NOT SUBJECT TO THE FINANCIAL
36 SOLVENCY REGULATION AND ENFORCEMENT THAT
37 APPLY TO CALIFORNIA LICENSED INSURERS.

38 3. THE INSURER DOES NOT PARTICIPATE IN ANY OF
39 THE INSURANCE GUARANTEE FUNDS CREATED BY
40 CALIFORNIA LAW. THEREFORE, THESE FUNDS WILL

1 NOT PAY YOUR CLAIMS OR PROTECT YOUR ASSETS IF
2 THE INSURER BECOMES INSOLVENT AND IS UNABLE
3 TO MAKE PAYMENTS AS PROMISED.

4 4. THE INSURER SHOULD BE LICENSED EITHER AS A
5 FOREIGN INSURER IN ANOTHER STATE IN THE UNITED
6 STATES OR AS A NON-UNITED STATES (ALIEN) INSURER.
7 YOU SHOULD ASK QUESTIONS OF YOUR INSURANCE
8 AGENT, BROKER, OR “SURPLUS LINE” BROKER OR
9 CONTACT THE CALIFORNIA DEPARTMENT OF
10 INSURANCE AT THE FOLLOWING TOLL-FREE
11 TELEPHONE NUMBER _____. ASK WHETHER OR NOT THE
12 INSURER IS LICENSED AS A FOREIGN OR NON-UNITED
13 STATES (ALIEN) INSURER AND FOR ADDITIONAL
14 INFORMATION ABOUT THE INSURER. YOU MAY ALSO
15 CONTACT THE NAIC’S INTERNET WEB SITE AT
16 WWW.NAIC.ORG.

17 5. FOREIGN INSURERS SHOULD BE LICENSED BY A
18 STATE IN THE UNITED STATES AND YOU MAY CONTACT
19 THAT STATE’S DEPARTMENT OF INSURANCE TO OBTAIN
20 MORE INFORMATION ABOUT THAT INSURER.

21 6. FOR NON-UNITED STATES (ALIEN) INSURERS, THE
22 INSURER SHOULD BE LICENSED BY A COUNTRY
23 OUTSIDE OF THE UNITED STATES AND SHOULD BE ON
24 THE NAIC’S INTERNATIONAL INSURERS DEPARTMENT
25 (IID) LISTING OF APPROVED NONADMITTED
26 NON-UNITED STATES INSURERS. ASK YOUR AGENT,
27 BROKER, OR “SURPLUS LINE” BROKER TO OBTAIN MORE
28 INFORMATION ABOUT THAT INSURER.

29 7. CALIFORNIA MAINTAINS A LIST OF APPROVED
30 SURPLUS LINE INSURERS. ASK YOUR AGENT OR BROKER
31 IF THE INSURER IS ON THAT LIST, OR VIEW THAT LIST
32 AT THE INTERNET WEB SITE OF THE CALIFORNIA
33 DEPARTMENT OF INSURANCE:
34 WWW.INSURANCE.CA.GOV.

35 8. IF YOU, AS THE APPLICANT, REQUIRED THAT THE
36 INSURANCE POLICY YOU HAVE PURCHASED BE BOUND
37 IMMEDIATELY, EITHER BECAUSE EXISTING COVERAGE
38 WAS GOING TO LAPSE WITHIN TWO BUSINESS DAYS OR
39 BECAUSE YOU WERE REQUIRED TO HAVE COVERAGE
40 WITHIN TWO BUSINESS DAYS, AND YOU DID NOT

1 RECEIVE THIS DISCLOSURE FORM AND A REQUEST FOR
2 YOUR SIGNATURE UNTIL AFTER COVERAGE BECAME
3 EFFECTIVE, YOU HAVE THE RIGHT TO CANCEL THIS
4 POLICY WITHIN FIVE DAYS OF RECEIVING THIS
5 DISCLOSURE. IF YOU CANCEL COVERAGE, THE PREMIUM
6 WILL BE PRORATED AND ANY BROKER'S FEE CHARGED
7 FOR THIS INSURANCE WILL BE RETURNED TO YOU.”

8

9 (c) When a contract is issued to an industrial insured, neither
10 the nonadmitted insurer nor the surplus line broker is required to
11 provide the notice required in this section except on the
12 confirmation of insurance, the certificate of placement, or the
13 policy, whichever is first provided to the insured, nor is the insurer
14 or surplus line broker required to obtain the insured's signature.
15 The producer shall ensure that the notice affixed to the confirmation
16 of insurance, certificate of placement, or the policy is provided to
17 the insured. The producer shall insert the current toll-free telephone
18 number of the Department of Insurance as provided in paragraph
19 4 of the notice.

20 (1) An industrial insured is an insured that does both of the
21 following:

22 (A) Employs at least 25 employees on average during the prior
23 12 months.

24 (B) Has aggregate annual premiums for insurance for all risks
25 other than workers' compensation and health coverage totaling no
26 less than twenty-five thousand dollars (\$25,000) or obtains
27 insurance through the services of a full-time employee acting as
28 an insurance manager or a continuously retained insurance
29 consultant. A “continuously retained insurance consultant” does
30 not include: (i) an agent or broker through whom the insurance is
31 being placed, (ii) a subagent or subproducer involved in the
32 transaction, or (iii) an agent or broker that is a business organization
33 employing or contracting with a person mentioned in clauses (i)
34 and (ii).

35 (2) The surplus line broker shall be responsible for ensuring
36 that the applicant is an industrial insured. A surplus line broker
37 who reasonably relies on information provided in good faith by
38 the applicant, whether directly or through the producer, shall be
39 deemed to be in compliance with this requirement.

1 (d) For purposes of compliance with the requirement of
2 subdivision (a) that the signature of the applicant be obtained, the
3 following shall apply:

4 (1) If the insurance transaction is not conducted at an in-person,
5 face-to-face meeting, the applicant's signature on the disclosure
6 form may be transmitted by the applicant to the agent or broker
7 via facsimile or comparable electronic transmittal.

8 (2) In the case of commercial lines coverage, or personal
9 insurance coverage subject to Section 675 and any umbrella
10 coverage associated therewith, where an applicant requires that
11 insurance coverage be bound immediately, either because existing
12 coverage will lapse within two business days of the time the
13 insurance is bound or because the applicant is required to have
14 coverage in place within two business days, and the applicant
15 cannot meet in person with the agent or broker to sign the
16 disclosure form, the agent or broker may obtain the signature of
17 the applicant within five days of binding coverage, provided that
18 the applicant may cancel the insurance so placed within five days
19 of receiving the disclosure form from the agent or broker. The
20 cancellation shall be on a pro rata basis, and the applicant shall be
21 entitled to the rescission or return of any broker's fees charged for
22 the placement. When a policy is canceled, the broker shall inform
23 the applicant that the broker's fee must be returned and that the
24 premium must be prorated.

25 (e) Notwithstanding subdivision (a), this section shall not apply
26 to insurance issued or delivered in this state by a nonadmitted
27 Mexican insurer by and through a surplus line broker affording
28 coverage exclusively in the Republic of Mexico on property located
29 temporarily or permanently in, or operations conducted temporarily
30 or permanently within, the Republic of Mexico.

31 (f) *This section shall remain in effect only until January 1, 2017,*
32 *and as of that date is repealed, unless a later enacted statute, that*
33 *is enacted before January 1, 2017, deletes or extends that date.*

34 *SEC. 13. Section 1764.1 is added to the Insurance Code, to*
35 *read:*

36 *1764.1. (a) (1) Every nonadmitted insurer, in the case of*
37 *insurance to be purchased by a home state insured pursuant to*
38 *Section 1760, and surplus line broker, in the case of any insurance*
39 *with a nonadmitted carrier for a home state insured to be*
40 *transacted by the surplus line broker, shall be responsible to ensure*

1 *that, at the time of accepting an application for an insurance*
2 *policy, other than a renewal of that policy, issued by a nonadmitted*
3 *insurer, the signature of the applicant on the disclosure statement*
4 *set forth in subdivision (b) is obtained. In fulfillment of this*
5 *responsibility, the nonadmitted insurer and the surplus line broker*
6 *may rely, if it is reasonable under all the circumstances to do so,*
7 *on the disclosure statement received from a licensee involved in*
8 *the transaction as prima facie evidence that the disclosure*
9 *statement and appropriate signature from the applicant have been*
10 *obtained. The surplus line broker shall maintain a copy of the*
11 *signed disclosure statement in his or her records for a period of*
12 *at least five years. These records shall be made available to the*
13 *commissioner and the insured upon request. This disclosure shall*
14 *be signed by the applicant, and is not subject to a limited power*
15 *of attorney agreement between the applicant and an agent or*
16 *broker or a surplus line broker. The disclosure statement shall be*
17 *in boldface 16-point type on a freestanding document. In addition,*
18 *every policy issued by a nonadmitted insurer and every certificate*
19 *evidencing the placement of insurance shall contain, or have*
20 *affixed to it by the insurer or surplus line broker, the disclosure*
21 *statement set forth in subdivision (b) in boldface 16-point type on*
22 *the front page of the policy.*

23 *(2) In a case in which the applicant has not received and*
24 *completed the signed disclosure form required by this section, he*
25 *or she may cancel the insurance so placed. The cancellation shall*
26 *be on a pro rata basis as to premium, and the applicant shall be*
27 *entitled to the return of any broker's fees charged for the*
28 *placement.*

29 *(b) The following notice shall be provided to home state insureds*
30 *and home state insured applicants for insurance as provided by*
31 *subdivision (a), and shall be printed in English and in the language*
32 *principally used by the surplus line broker and nonadmitted insurer*
33 *to advertise, solicit, or negotiate the sale and purchase of surplus*
34 *line insurance. The surplus line broker and nonadmitted insurer*
35 *shall use the appropriate bracketed language for application and*
36 *issued policy disclosures:*

“NOTICE:

- 1
- 2
- 3 1. THE INSURANCE POLICY THAT YOU [HAVE
- 4 PURCHASED] [ARE APPLYING TO PURCHASE] IS BEING
- 5 ISSUED BY AN INSURER THAT IS NOT LICENSED BY THE
- 6 STATE OF CALIFORNIA. THESE COMPANIES ARE CALLED
- 7 “NONADMITTED” OR “SURPLUS LINE” INSURERS.
- 8 2. THE INSURER IS NOT SUBJECT TO THE FINANCIAL
- 9 SOLVENCY REGULATION AND ENFORCEMENT THAT APPLY
- 10 TO CALIFORNIA LICENSED INSURERS.
- 11 3. THE INSURER DOES NOT PARTICIPATE IN ANY OF THE
- 12 INSURANCE GUARANTEE FUNDS CREATED BY CALIFORNIA
- 13 LAW. THEREFORE, THESE FUNDS WILL NOT PAY YOUR
- 14 CLAIMS OR PROTECT YOUR ASSETS IF THE INSURER
- 15 BECOMES INSOLVENT AND IS UNABLE TO MAKE PAYMENTS
- 16 AS PROMISED.
- 17 4. THE INSURER SHOULD BE LICENSED EITHER AS A
- 18 FOREIGN INSURER IN ANOTHER STATE IN THE UNITED
- 19 STATES OR AS A NON-UNITED STATES (ALIEN) INSURER.
- 20 YOU SHOULD ASK QUESTIONS OF YOUR INSURANCE
- 21 AGENT, BROKER, OR “SURPLUS LINE” BROKER OR
- 22 CONTACT THE CALIFORNIA DEPARTMENT OF INSURANCE
- 23 AT THE FOLLOWING TOLL-FREE TELEPHONE NUMBER
- 24 _____ OR INTERNET WEB SITE WWW.INSURANCE.CA.GOV.
- 25 ASK WHETHER OR NOT THE INSURER IS LICENSED AS A
- 26 FOREIGN OR NON-UNITED STATES (ALIEN) INSURER AND
- 27 FOR ADDITIONAL INFORMATION ABOUT THE INSURER.
- 28 YOU MAY ALSO CONTACT THE NAIC’S INTERNET WEB SITE
- 29 AT WWW.NAIC.ORG.
- 30 5. FOREIGN INSURERS SHOULD BE LICENSED BY A STATE
- 31 IN THE UNITED STATES AND YOU MAY CONTACT THAT
- 32 STATE’S DEPARTMENT OF INSURANCE TO OBTAIN MORE
- 33 INFORMATION ABOUT THAT INSURER.
- 34 6. FOR NON-UNITED STATES (ALIEN) INSURERS, THE
- 35 INSURER SHOULD BE LICENSED BY A COUNTRY OUTSIDE
- 36 OF THE UNITED STATES AND SHOULD BE ON THE NAIC’S
- 37 INTERNATIONAL INSURERS DEPARTMENT (IID) LISTING
- 38 OF APPROVED NONADMITTED NON-UNITED STATES
- 39 INSURERS. ASK YOUR AGENT, BROKER, OR “SURPLUS LINE”

1 *BROKER TO OBTAIN MORE INFORMATION ABOUT THAT*
2 *INSURER.*

3 *7. CALIFORNIA MAINTAINS A LIST OF APPROVED*
4 *SURPLUS LINE INSURERS. ASK YOUR AGENT OR BROKER*
5 *IF THE INSURER IS ON THAT LIST, OR VIEW THAT LIST AT*
6 *THE INTERNET WEB SITE OF THE CALIFORNIA*
7 *DEPARTMENT OF INSURANCE: WWW.INSURANCE.CA.GOV.*

8 *8. IF YOU, AS THE APPLICANT, REQUIRED THAT THE*
9 *INSURANCE POLICY YOU HAVE PURCHASED BE BOUND*
10 *IMMEDIATELY, EITHER BECAUSE EXISTING COVERAGE*
11 *WAS GOING TO LAPSE WITHIN TWO BUSINESS DAYS OR*
12 *BECAUSE YOU WERE REQUIRED TO HAVE COVERAGE*
13 *WITHIN TWO BUSINESS DAYS, AND YOU DID NOT RECEIVE*
14 *THIS DISCLOSURE FORM AND A REQUEST FOR YOUR*
15 *SIGNATURE UNTIL AFTER COVERAGE BECAME EFFECTIVE,*
16 *YOU HAVE THE RIGHT TO CANCEL THIS POLICY WITHIN*
17 *FIVE DAYS OF RECEIVING THIS DISCLOSURE. IF YOU*
18 *CANCEL COVERAGE, THE PREMIUM WILL BE PRORATED*
19 *AND ANY BROKER'S FEE CHARGED FOR THIS INSURANCE*
20 *WILL BE RETURNED TO YOU."*

21
22 *(c) When a contract is issued to an industrial insured, neither*
23 *the nonadmitted insurer nor the surplus line broker is required to*
24 *provide the notice required in this section except on the*
25 *confirmation of insurance, the certificate of placement, or the*
26 *policy, whichever is first provided to the insured, nor is the insurer*
27 *or surplus line broker required to obtain the insured's signature.*
28 *The producer shall ensure that the notice affixed to the*
29 *confirmation of insurance, certificate of placement, or the policy*
30 *is provided to the insured. The producer shall insert the current*
31 *toll-free telephone number of the Department of Insurance as*
32 *provided in paragraph 4 of the notice.*

33 *(1) An industrial insured is an insured that does both of the*
34 *following:*

35 *(A) Employs at least 25 employees on average during the prior*
36 *12 months.*

37 *(B) Has aggregate annual premiums for insurance for all risks*
38 *other than workers' compensation and health coverage totaling*
39 *no less than twenty-five thousand dollars (\$25,000) or obtains*
40 *insurance through the services of a full-time employee acting as*

1 *an insurance manager or a continuously retained insurance*
2 *consultant. A “continuously retained insurance consultant” does*
3 *not include: (i) an agent or broker through whom the insurance*
4 *is being placed, (ii) a subagent or subproducer involved in the*
5 *transaction, or (iii) an agent or broker that is a business*
6 *organization employing or contracting with a person mentioned*
7 *in clauses (i) and (ii).*

8 (2) *The surplus line broker shall be responsible for ensuring*
9 *that the applicant is an industrial insured. A surplus line broker*
10 *who reasonably relies on information provided in good faith by*
11 *the applicant, whether directly or through the producer, shall be*
12 *deemed to be in compliance with this requirement.*

13 (d) *For purposes of compliance with the requirement of*
14 *subdivision (a) that the signature of the applicant be obtained, the*
15 *following shall apply:*

16 (1) *If the insurance transaction is not conducted at an in-person,*
17 *face-to-face meeting, the applicant’s signature on the disclosure*
18 *form may be transmitted by the applicant to the agent or broker*
19 *via facsimile or comparable electronic transmittal.*

20 (2) *In the case of commercial lines coverage, or personal*
21 *insurance coverage subject to Section 675 and any umbrella*
22 *coverage associated therewith, where an applicant requires that*
23 *insurance coverage be bound immediately, either because existing*
24 *coverage will lapse within two business days of the time the*
25 *insurance is bound or because the applicant is required to have*
26 *coverage in place within two business days, and the applicant*
27 *cannot meet in person with the agent or broker to sign the*
28 *disclosure form, the agent or broker may obtain the signature of*
29 *the applicant within five days of binding coverage, provided that*
30 *the applicant may cancel the insurance so placed within five days*
31 *of receiving the disclosure form from the agent or broker. The*
32 *cancellation shall be on a pro rata basis, and the applicant shall*
33 *be entitled to the rescission or return of any broker’s fees charged*
34 *for the placement. When a policy is canceled, the broker shall*
35 *inform the applicant that the broker’s fee must be returned and*
36 *that the premium must be prorated.*

37 (e) *Notwithstanding subdivision (a), this section shall not apply*
38 *to insurance issued or delivered in this state by a nonadmitted*
39 *Mexican insurer by and through a surplus line broker affording*
40 *coverage exclusively in the Republic of Mexico on property located*

1 temporarily or permanently in, or operations conducted
2 temporarily or permanently within, the Republic of Mexico.

3 (f) This section shall become operative on January 1, 2017.

4 ~~SEC. 8.~~

5 SEC. 14. Section 1861.02 of the Insurance Code is amended
6 to read:

7 1861.02. (a) Rates and premiums for an automobile insurance
8 policy, as described in subdivision (a) of Section 660, shall be
9 determined by application of the following factors in decreasing
10 order of importance:

- 11 (1) The insured's driving safety record.
- 12 (2) The number of miles he or she drives annually.
- 13 (3) The number of years of driving experience the insured has
14 had.

15 (4) Those other factors that the commissioner may adopt by
16 regulation and that have a substantial relationship to the risk of
17 loss. The regulations shall set forth the respective weight to be
18 given each factor in determining automobile rates and premiums.
19 Notwithstanding any other provision of law, the use of any criterion
20 without approval shall constitute unfair discrimination.

21 (b) (1) Every person who meets the criteria of Section 1861.025
22 shall be qualified to purchase a Good Driver Discount policy from
23 the insurer of his or her choice. An insurer shall not refuse to offer
24 and sell a Good Driver Discount policy to any person who meets
25 the standards of this subdivision.

26 (2) The rate charged for a Good Driver Discount policy shall
27 comply with subdivision (a) and shall be at least 20 percent below
28 the rate the insured would otherwise have been charged for the
29 same coverage. Rates for Good Driver Discount policies shall be
30 approved pursuant to this article.

31 (3) (A) This subdivision shall not prevent a reciprocal insurer,
32 organized prior to November 8, 1988, by a motor club holding a
33 certificate of authority under Chapter 2 (commencing with Section
34 12160) of Part 5 of Division 2, and that requires membership in
35 the motor club as a condition precedent to applying for insurance
36 from requiring membership in the motor club as a condition
37 precedent to obtaining insurance described in this subdivision.

38 (B) This subdivision shall not prevent an insurer that requires
39 membership in a specified voluntary, nonprofit organization, which
40 was in existence prior to November 8, 1988, as a condition

1 precedent to applying for insurance issued to or through those
2 membership groups, including franchise groups, from requiring
3 that membership as a condition to applying for the coverage offered
4 to members of the group, provided that it or an affiliate also offers
5 and sells coverage to those who are not members of those
6 membership groups.

7 (C) However, all of the following conditions shall be applicable
8 to the insurance authorized by subparagraphs (A) and (B):

9 (i) Membership, if conditioned, is conditioned only on timely
10 payment of membership dues and other bona fide criteria not based
11 upon driving record or insurance, provided that membership in a
12 motor club may not be based on residence in any area within the
13 state.

14 (ii) Membership dues are paid solely for and in consideration
15 of the membership and membership benefits and bear a reasonable
16 relationship to the benefits provided. The amount of the dues shall
17 not depend on whether the member purchases insurance offered
18 by the membership organization. None of those membership dues
19 or any portion thereof shall be transferred by the membership
20 organization to the insurer, or any affiliate of the insurer,
21 attorney-in-fact, subsidiary, or holding company thereof, provided
22 that this provision shall not prevent any bona fide transaction
23 between the membership organization and those entities.

24 (iii) Membership provides bona fide services or benefits in
25 addition to the right to apply for insurance. Those services shall
26 be reasonably available to all members within each class of
27 membership.

28 Any insurer that violates clause (i), (ii), or (iii) shall be subject
29 to the penalties set forth in Section 1861.14.

30 (c) The absence of prior automobile insurance coverage, in and
31 of itself, shall not be a criterion for determining eligibility for a
32 Good Driver Discount policy, or generally for automobile rates,
33 premiums, or insurability.

34 (d) An insurer may refuse to sell a Good Driver Discount policy
35 insuring a motorcycle unless all named insureds have been licensed
36 to drive a motorcycle for the previous three years.

37 (e) This section shall become operative on November 8, 1989.
38 The commissioner shall adopt regulations implementing this
39 section and insurers may submit applications pursuant to this article

1 which comply with those regulations prior to that date, provided
2 that no such application shall be approved prior to that date.

3 ~~SEC. 9.~~

4 *SEC. 15.* Section 1861.025 of the Insurance Code is amended
5 to read:

6 1861.025. A person is qualified to purchase a Good Driver
7 Discount policy if he or she meets all of the following criteria:

8 (a) He or she has been licensed to drive a motor vehicle for the
9 previous three years.

10 (b) During the previous three years, he or she has not done any
11 of the following:

12 (1) Had more than one violation point count determined as
13 provided by subdivision (a), (b), (c), (d), (f), or (j) of, or paragraph
14 (1) of subdivision (i) of, Section 12810 of the Vehicle Code, but
15 subject to the following modifications:

16 (A) For the purposes of this section, the driver of a motor vehicle
17 involved in an accident for which he or she was principally at fault
18 that resulted only in damage to property shall receive one violation
19 point count, in addition to any other violation points that may be
20 imposed for this accident.

21 (B) If, under Section 488 or 488.5, an insurer is prohibited from
22 increasing the premium on a policy on account of a violation, that
23 violation shall not be included in determining the point count of
24 the person.

25 (C) If a violation is required to be reported under Section 1816
26 of the Vehicle Code, or under Section 784 of the Welfare and
27 Institutions Code, or any other provision requiring the reporting
28 of a violation by a minor, the violation shall be included for the
29 purposes of this section in determining the point count in the same
30 manner as is applicable to adult violations.

31 (2) Had more than one dismissal pursuant to Section 1803.5 of
32 the Vehicle Code that was not made confidential pursuant to
33 Section 1808.7 of the Vehicle Code, in the 36-month period for
34 violations that would have resulted in the imposition of more than
35 one violation point count under paragraph (1) if the complaint had
36 not been dismissed.

37 (3) Was the driver of a motor vehicle involved in an accident
38 that resulted in bodily injury or in the death of any person and was
39 principally at fault. The commissioner shall adopt regulations

1 setting guidelines to be used by insurers for the determination of
2 fault for the purposes of this paragraph and paragraph (1).

3 (c) During the period commencing on January 1, 1999, or the
4 date 10 years prior to the date of application for the issuance or
5 renewal of the Good Driver Discount policy, whichever is later,
6 and ending on the date of the application for the issuance or
7 renewal of the Good Driver Discount policy, he or she has not
8 been convicted of a violation of Section 23140, 23152, or 23153
9 of the Vehicle Code, a felony violation of Section 23550 or 23566,
10 or former Section 23175 or, as those sections read on January 1,
11 1999, of the Vehicle Code, or a violation of Section 191.5 or
12 subdivision (a) of Section 192.5 of the Penal Code.

13 (d) Any person who claims that he or she meets the criteria of
14 subdivisions (a), (b), and (c) based entirely or partially on a driver’s
15 license and driving experience acquired anywhere other than in
16 the United States or Canada is rebuttably presumed to be qualified
17 to purchase a Good Driver Discount policy if he or she has been
18 licensed to drive in the United States or Canada for at least the
19 previous 18 months and meets the criteria of subdivisions (a), (b),
20 and (c) for that period.

21 ~~SEC. 10.~~

22 *SEC. 16.* Section 10111.2 of the Insurance Code is amended
23 to read:

24 10111.2. (a) Under a policy of disability insurance other than
25 health insurance, as defined in Section 106, including a policy of
26 disability income insurance, as defined in subdivision (i) of Section
27 799.01, payment of benefits to the insured shall be made within
28 30 calendar days after the insurer has received all information
29 needed to determine liability for a claim. However, the
30 30-calendar-day period shall not include any time during which
31 the insurer is doing any of the following:

32 (1) Awaiting a response for relevant medical information from
33 a health care provider.

34 (2) Awaiting a response from the claimant to a request for
35 additional relevant information.

36 (3) Investigating possible fraud that has been reported to the
37 department’s Fraud Division in compliance with subdivision (a)
38 of Section 1872.4.

39 (b) If the insurer has not received all information needed to
40 determine liability for a claim within 30 calendar days after receipt

1 of the claim, the insurer shall notify the insured in writing and
2 include a written list of all information it reasonably needs to
3 determine liability for the claim. In that event, the 30-calendar-day
4 period set out in subdivision (a) shall commence when the insured
5 has provided to the insurer all information in that notification. If
6 no notice is sent by the insurer within 30 calendar days after the
7 claim is filed by the insured, interest shall begin to accrue on the
8 payment of benefits on the 31st calendar day after receipt of the
9 claim, at the rate of 10 percent per year.

10 (c) When the insurer has received all information needed to
11 determine liability for a claim, and the insurer determines that
12 liability exists and fails to make payment of benefits to the insured
13 within 30 calendar days after the insurer has received that
14 information, any delayed payment shall bear interest, beginning
15 the 31st calendar day, at the rate of 10 percent per year. Liability
16 shall, in all cases, be determined by the insurer within 30 calendar
17 days of receiving all information set out in the insurer's written
18 notification to the insured.

19 (d) Nothing in this section is intended to restrict any other
20 remedies available to an insured by statute or any other law.

21 ~~SEC. 11.~~

22 *SEC. 17.* Section 10127.13 of the Insurance Code, as added
23 by Section 8 of Chapter 166 of the Statutes of 2014, is amended
24 to read:

25 10127.13. (a) All individual life insurance policies and
26 individual annuity contracts for senior citizens that contain a charge
27 upon surrender, partial surrender, excess withdrawal, or penalties
28 upon surrender shall contain a notice disclosing the location of all
29 of the following: the charge, the charge time period, the charge
30 information, and any associated penalty information. The notice
31 shall be in bold 12-point type on the front of the policy jacket or
32 on the cover page of the policy.

33 (b) A policy shall have just one cover page. If the notice required
34 by this section and the statutorily required right to examine notice
35 are both on the cover page, as opposed to the front cover of the
36 policy jacket, they shall appear on the same page.

37 (c) General references to "policy" in this section refer to both
38 life insurance policies and annuity contracts.

39 (d) This section shall become operative on July 1, 2015.

1 SEC. 12. ~~Section 10169 of the Insurance Code, as added by~~
2 ~~Section 8 of Chapter 872 of the Statutes of 2012, is amended to~~
3 ~~read:~~

4 ~~10169. (a) Commencing January 1, 2001, there is hereby~~
5 ~~established in the department the Independent Medical Review~~
6 ~~System.~~

7 ~~(b) For the purposes of this chapter, “disputed health care~~
8 ~~service” means any health care service eligible for coverage and~~
9 ~~payment under a disability insurance contract that has been denied,~~
10 ~~modified, or delayed by a decision of the insurer, or by one of its~~
11 ~~contracting providers, in whole or in part due to a finding that the~~
12 ~~service is not medically necessary. A decision regarding a disputed~~
13 ~~health care service relates to the practice of medicine and is not a~~
14 ~~coverage decision. A disputed health care service does not include~~
15 ~~services provided by a group or individual policy of vision-only~~
16 ~~or dental-only coverage, except to the extent that (1) the service~~
17 ~~involves the practice of medicine, or (2) is provided pursuant to a~~
18 ~~contract with a disability insurer that covers hospital, medical, or~~
19 ~~surgical benefits. If an insurer, or one of its contracting providers,~~
20 ~~issues a decision denying, modifying, or delaying health care~~
21 ~~services, based in whole or in part on a finding that the proposed~~
22 ~~health care services are not a covered benefit under the contract~~
23 ~~that applies to the insured, the statement of decision shall clearly~~
24 ~~specify the provision in the contract that excludes that coverage.~~

25 ~~(c) For the purposes of this chapter, “coverage decision” means~~
26 ~~the approval or denial of health care services by a disability insurer,~~
27 ~~or by one of its contracting entities, substantially based on a finding~~
28 ~~that the provision of a particular service is included or excluded~~
29 ~~as a covered benefit under the terms and conditions of the disability~~
30 ~~insurance contract. A coverage decision does not encompass a~~
31 ~~disability insurer or contracting provider decision regarding a~~
32 ~~disputed health care service.~~

33 ~~(d) (1) All insured grievances involving a disputed health care~~
34 ~~service are eligible for review under the Independent Medical~~
35 ~~Review System if the requirements of this article are met. If the~~
36 ~~department finds that an insured grievance involving a disputed~~
37 ~~health care service does not meet the requirements of this article~~
38 ~~for review under the Independent Medical Review System, the~~
39 ~~insured request for review shall be treated as a request for the~~
40 ~~department to review the grievance. All other insured grievances,~~

1 including grievances involving coverage decisions, remain eligible
2 for review by the department.

3 (2) In any case in which an insured or provider asserts that a
4 decision to deny, modify, or delay health care services was based,
5 in whole or in part, on consideration of medical necessity, the
6 department shall have the final authority to determine whether the
7 grievance is more properly resolved pursuant to an independent
8 medical review as provided under this article.

9 (3) The department shall be the final arbiter when there is a
10 question as to whether an insured grievance is a disputed health
11 care service or a coverage decision. The department shall establish
12 a process to complete an initial screening of an insured grievance.
13 If there appears to be any medical necessity issue, the grievance
14 shall be resolved pursuant to an independent medical review as
15 provided under this article.

16 (e) Every disability insurance contract that is issued, amended,
17 renewed, or delivered in this state on or after January 1, 2000, shall
18 provide an insured with the opportunity to seek an independent
19 medical review whenever health care services have been denied,
20 modified, or delayed by the insurer, or by one of its contracting
21 providers, if the decision was based in whole or in part on a finding
22 that the proposed health care services are not medically necessary.
23 For purposes of this article, an insured may designate an agent to
24 act on his or her behalf. The provider may join with or otherwise
25 assist the insured in seeking an independent medical review, and
26 may advocate on behalf of the insured.

27 (f) Medicare beneficiaries enrolled in Medicare + Choice
28 products shall not be excluded unless expressly preempted by
29 federal law.

30 (g) The department may seek to integrate the quality of care
31 and consumer protection provisions, including remedies, of the
32 Independent Medical Review System with related dispute
33 resolution procedures of other health care agency programs,
34 including the Medicare program, in a way that minimizes the
35 potential for duplication, conflict, and added costs. Nothing in this
36 subdivision shall be construed to limit any rights conferred upon
37 insureds under this chapter.

38 (h) The independent medical review process authorized by this
39 article is in addition to any other procedures or remedies that may
40 be available.

1 (i) ~~Every disability insurer shall prominently display in every~~
2 ~~insurer member handbook or relevant informational brochure, in~~
3 ~~every insurance contract, on insured evidence of coverage forms,~~
4 ~~on copies of insurer procedures for resolving grievances, on letters~~
5 ~~of denials issued by either the insurer or its contracting~~
6 ~~organization, and on all written responses to grievances,~~
7 ~~information concerning the right of an insured to request an~~
8 ~~independent medical review when the insured believes that health~~
9 ~~care services have been improperly denied, modified, or delayed~~
10 ~~by the insurer, or by one of its contracting providers. The~~
11 ~~department's telephone number, 1-800-927-4357, and Internet~~
12 ~~Web site, www.insurance.ca.gov, shall also be displayed.~~

13 (j) ~~An insured may apply to the department for an independent~~
14 ~~medical review when all of the following conditions are met:~~

15 (1) (A) ~~The insured's provider has recommended a health care~~
16 ~~service as medically necessary, or~~

17 (B) ~~The insured has received urgent care or emergency services~~
18 ~~that a provider determined was medically necessary, or~~

19 (C) ~~The insured, in the absence of a provider recommendation~~
20 ~~under subparagraph (A) or the receipt of urgent care or emergency~~
21 ~~services by a provider under subparagraph (B), has been seen by~~
22 ~~a contracting provider for the diagnosis or treatment of the medical~~
23 ~~condition for which the insured seeks independent review. The~~
24 ~~insurer shall expedite access to a contracting provider upon request~~
25 ~~of an insured. The contracting provider need not recommend the~~
26 ~~disputed health care service as a condition for the insured to be~~
27 ~~eligible for an independent review.~~

28 ~~For purposes of this article, the insured's provider may be a~~
29 ~~noncontracting provider. However, the insurer shall have no~~
30 ~~liability for payment of services provided by a noncontracting~~
31 ~~provider, except as provided pursuant to Section 10169.3.~~

32 (2) ~~The disputed health care service has been denied, modified,~~
33 ~~or delayed by the insurer, or by one of its contracting providers,~~
34 ~~based in whole or in part on a decision that the health care service~~
35 ~~is not medically necessary.~~

36 (3) ~~The insured has filed a grievance with the insurer or its~~
37 ~~contracting provider, and the disputed decision is upheld or the~~
38 ~~grievance remains unresolved after 30 days. The insured shall not~~
39 ~~be required to participate in the insurer's grievance process for~~
40 ~~more than 30 days. In the case of a grievance that requires~~

1 expedited review, the insured shall not be required to participate
2 in the insurer's grievance process for more than three days.

3 ~~(k) An insured may apply to the department for an independent
4 medical review of a decision to deny, modify, or delay health care
5 services, based in whole or in part on a finding that the disputed
6 health care services are not medically necessary, within six months
7 of any of the qualifying periods or events under subdivision (j).
8 The commissioner may extend the application deadline beyond
9 six months if the circumstances of a case warrant the extension.~~

10 ~~(l) The insured shall pay no application or processing fees of
11 any kind.~~

12 ~~(m) As part of its notification to the insured regarding a
13 disposition of the insured's grievance that denies, modifies, or
14 delays health care services, the insurer shall provide the insured
15 with a one- or two-page application form approved by the
16 department, and an addressed envelope, which the insured may
17 return to initiate an independent medical review. The insurer shall
18 include on the form any information required by the department
19 to facilitate the completion of the independent medical review,
20 such as the insured's diagnosis or condition, the nature of the
21 disputed health care service sought by the insured, a means to
22 identify the insured's case, and any other material information.
23 The form shall also include the following:~~

24 ~~(1) Notice that a decision not to participate in the independent
25 review process may cause the insured to forfeit any statutory right
26 to pursue legal action against the insurer regarding the disputed
27 health care service.~~

28 ~~(2) A statement indicating the insured's consent to obtain any
29 necessary medical records from the insurer, any of its contracting
30 providers, and any noncontracting provider the insured may have
31 consulted on the matter, to be signed by the insured.~~

32 ~~(3) Notice of the insured's right to provide information or
33 documentation, either directly or through the insured's provider,
34 regarding any of the following:~~

35 ~~(A) A provider recommendation indicating that the disputed
36 health care service is medically necessary for the insured's medical
37 condition.~~

38 ~~(B) Medical information or justification that a disputed health
39 care service, on an urgent care or emergency basis, was medically
40 necessary for the insured's medical condition.~~

1 ~~(C) Reasonable information supporting the insured’s position~~
 2 ~~that the disputed health care service is or was medically necessary~~
 3 ~~for the insured’s medical condition, including all information~~
 4 ~~provided to the insured by the insurer or any of its contracting~~
 5 ~~providers, still in the possession of the insured, concerning an~~
 6 ~~insurer or provider decision regarding disputed health care services,~~
 7 ~~and a copy of any materials the insured submitted to the insurer,~~
 8 ~~still in the possession of the insured, in support of the grievance,~~
 9 ~~as well as any additional material that the insured believes is~~
 10 ~~relevant.~~

11 ~~(4) A section designed to collect information on the insured’s~~
 12 ~~ethnicity, race, and primary language spoken that includes both of~~
 13 ~~the following:~~

14 ~~(A) A statement of intent indicating that the information is used~~
 15 ~~for statistics only, in order to ensure that all insureds get the best~~
 16 ~~care possible.~~

17 ~~(B) A statement indicating that providing this information is~~
 18 ~~optional and will not affect the independent medical review process~~
 19 ~~in any way.~~

20 ~~(n) Upon notice from the department that the insured has applied~~
 21 ~~for an independent medical review, the insurer or its contracting~~
 22 ~~providers, shall provide to the independent medical review~~
 23 ~~organization designated by the department a copy of all of the~~
 24 ~~following documents within three business days of the insurer’s~~
 25 ~~receipt of the department’s notice of a request by an insured for~~
 26 ~~an independent review:~~

27 ~~(1) (A) A copy of all of the insured’s medical records in the~~
 28 ~~possession of the insurer or its contracting providers relevant to~~
 29 ~~each of the following:~~

- 30 ~~(i) The insured’s medical condition.~~
- 31 ~~(ii) The health care services being provided by the insurer and~~
 32 ~~its contracting providers for the condition.~~
- 33 ~~(iii) The disputed health care services requested by the insured~~
 34 ~~for the condition.~~

35 ~~(B) Any newly developed or discovered relevant medical records~~
 36 ~~in the possession of the insurer or its contracting providers after~~
 37 ~~the initial documents are provided to the independent medical~~
 38 ~~review organization shall be forwarded immediately to the~~
 39 ~~independent medical review organization. The insurer shall~~
 40 ~~concurrently provide a copy of medical records required by this~~

1 subparagraph to the insured or the insured's provider, if authorized
2 by the insured, unless the offer of medical records is declined or
3 otherwise prohibited by law. The confidentiality of all medical
4 record information shall be maintained pursuant to applicable state
5 and federal laws.

6 ~~(2) A copy of all information provided to the insured by the~~
7 ~~insurer and any of its contracting providers concerning insurer and~~
8 ~~provider decisions regarding the insured's condition and care, and~~
9 ~~a copy of any materials the insured or the insured's provider~~
10 ~~submitted to the insurer and to the insurer's contracting providers~~
11 ~~in support of the insured's request for disputed health care services.~~
12 ~~This documentation shall include the written response to the~~
13 ~~insured's grievance. The confidentiality of any insured medical~~
14 ~~information shall be maintained pursuant to applicable state and~~
15 ~~federal laws.~~

16 ~~(3) A copy of any other relevant documents or information used~~
17 ~~by the insurer or its contracting providers in determining whether~~
18 ~~disputed health care services should have been provided, and any~~
19 ~~statements by the insurer and its contracting providers explaining~~
20 ~~the reasons for the decision to deny, modify, or delay disputed~~
21 ~~health care services on the basis of medical necessity. The insurer~~
22 ~~shall concurrently provide a copy of documents required by this~~
23 ~~paragraph, except for any information found by the commissioner~~
24 ~~to be legally privileged information, to the insured and the insured's~~
25 ~~provider. The department and the independent medical review~~
26 ~~organization shall maintain the confidentiality of any information~~
27 ~~found by the commissioner to be the proprietary information of~~
28 ~~the insurer.~~

29 ~~(6) This section shall become operative on July 1, 2015.~~

30 ~~SEC. 13.— Section 10192.18 of the Insurance Code is amended~~
31 ~~to read:~~

32 ~~10192.18.— (a) Application forms shall include the following~~
33 ~~questions designed to elicit information as to whether, as of the~~
34 ~~date of the application, the applicant currently has Medicare~~
35 ~~supplement, Medicare Advantage, Medi-Cal coverage, or another~~
36 ~~health insurance policy or certificate in force or whether a Medicare~~
37 ~~supplement policy or certificate is intended to replace any other~~
38 ~~disability policy or certificate presently in force. A supplementary~~
39 ~~application or other form to be signed by the applicant and agent~~
40 ~~containing those questions and statements may be used.~~

1 -

(Statements)

2

3 -

4 ~~(1) You do not need more than one Medicare supplement policy.~~

5 ~~(2) If you purchase this policy, you may want to evaluate your~~
6 ~~existing health coverage and decide if you need multiple coverages.~~

7 ~~(3) You may be eligible for benefits under Medi-Cal and may~~
8 ~~not need a Medicare supplement policy.~~

9 ~~(4) If after purchasing this policy you become eligible for~~
10 ~~Medi-Cal, the benefits and premiums under your Medicare~~
11 ~~supplement policy can be suspended, if requested, during your~~
12 ~~entitlement to benefits under Medi-Cal for 24 months. You must~~
13 ~~request this suspension within 90 days of becoming eligible for~~
14 ~~Medi-Cal. If you are no longer entitled to Medi-Cal, your~~
15 ~~suspended Medicare supplement policy or if that is no longer~~
16 ~~available, a substantially equivalent policy, will be reinstated if~~
17 ~~requested within 90 days of losing Medi-Cal eligibility. If the~~
18 ~~Medicare supplement policy provided coverage for outpatient~~
19 ~~prescription drugs and you enrolled in Medicare Part D while your~~
20 ~~policy was suspended, the reinstated policy will not have~~
21 ~~outpatient prescription drug coverage, but will otherwise be~~
22 ~~substantially equivalent to your coverage before the date of the~~
23 ~~suspension.~~

24 ~~(5) If you are eligible for, and have enrolled in, a Medicare~~
25 ~~supplement policy by reason of disability and you later become~~
26 ~~covered by an employer or union-based group health plan, the~~
27 ~~benefits and premiums under your Medicare supplement policy~~
28 ~~can be suspended, if requested, while you are covered under the~~
29 ~~employer or union-based group health plan. If you suspend your~~
30 ~~Medicare supplement policy under these circumstances and later~~
31 ~~lose your employer or union-based group health plan, your~~
32 ~~suspended Medicare supplement policy or if that is no longer~~
33 ~~available, a substantially equivalent policy, will be reinstated if~~
34 ~~requested within 90 days of losing your employer or union-based~~
35 ~~group health plan. If the Medicare supplement policy provided~~
36 ~~coverage for outpatient prescription drugs and you enrolled in~~
37 ~~Medicare Part D while your policy was suspended, the reinstated~~
38 ~~policy will not have outpatient prescription drug coverage, but will~~
39 ~~otherwise be substantially equivalent to your coverage before the~~
40 ~~date of the suspension.~~

1 ~~(6) Counseling services are available in this state to provide~~
 2 ~~advice concerning your purchase of Medicare supplement insurance~~
 3 ~~and concerning medical assistance through the Medi-Cal program,~~
 4 ~~including benefits as a qualified Medicare beneficiary (QMB) and~~
 5 ~~a specified low-income Medicare beneficiary (SLMB). If you want~~
 6 ~~to discuss buying Medicare supplement insurance with a trained~~
 7 ~~insurance counselor, call the California Department of Insurance's~~
 8 ~~toll-free telephone number 1-800-927-HELP, or access the~~
 9 ~~department's Internet Web site, www.insurance.ca.gov, and ask~~
 10 ~~how to contact your local Health Insurance Counseling and~~
 11 ~~Advocacy Program (HICAP) office. HICAP is a service provided~~
 12 ~~free of charge by the State of California.~~

13 -

(Questions)

15 -

16 ~~If you lost or are losing other health insurance coverage and~~
 17 ~~received a notice from your prior insurer saying you were eligible~~
 18 ~~for guaranteed issue of a Medicare supplement insurance policy~~
 19 ~~or that you had certain rights to buy such a policy, you may be~~
 20 ~~guaranteed acceptance in one or more of our Medicare supplement~~
 21 ~~plans. Please include a copy of the notice from your prior insurer~~
 22 ~~with your application. PLEASE ANSWER ALL QUESTIONS.~~

23 ~~{Please mark Yes or No below with an "X."}~~

24 ~~To the best of your knowledge,~~

25 ~~(1) (a) Did you turn 65 years of age in the last 6 months~~

26 ~~Yes _____ No _____~~

27 ~~(b) Did you enroll in Medicare Part B in the last 6 months~~

28 ~~Yes _____ No _____~~

29 ~~(c) If yes, what is the effective date _____~~

30 ~~(2) Are you covered for medical assistance through California's~~

31 ~~Medi-Cal program~~

32 ~~NOTE TO APPLICANT: If you have a share of cost under the~~
 33 ~~Medi-Cal program, please answer NO to this question.~~

34 ~~Yes _____ No _____~~

35 ~~If yes,~~

36 ~~(a) Will Medi-Cal pay your premiums for this Medicare~~
 37 ~~supplement policy~~

38 ~~Yes _____ No _____~~

39 ~~(b) Do you receive benefits from Medi-Cal OTHER THAN~~
 40 ~~payments toward your Medicare Part B premium~~

1 Yes No

2 (3) (a) If you had coverage from any Medicare plan other than
3 original Medicare within the past 63 days (for example, a Medicare
4 Advantage plan or a Medicare HMO or PPO), fill in your start and
5 end dates below. If you are still covered under this plan, leave
6 “END” blank.
7 START / / END / /

8 (b) If you are still covered under the Medicare plan, do you
9 intend to replace your current coverage with this new Medicare
10 supplement policy
11 Yes No

12 (c) Was this your first time in this type of Medicare plan
13 Yes No

14 (d) Did you drop a Medicare supplement policy to enroll in the
15 Medicare plan
16 Yes No

17 (4) (a) Do you have another Medicare supplement policy in
18 force
19 Yes No

20 (b) If so, with what company, and what plan do you have
21 [optional for direct mailers]
22 Yes No

23 (c) If so, do you intend to replace your current Medicare
24 supplement policy with this policy
25 Yes No

26 (5) Have you had coverage under any other health insurance
27 within the past 63 days (For example, an employer, union, or
28 individual plan)
29 Yes No

30 (a) If so, with what companies and what kind of policy
31 _____
32 _____
33 _____
34 _____

35 (b) What are your dates of coverage under the other policy
36 START / / END / /

37 (If you are still covered under the other policy, leave “END”
38 blank.)
39 -

1 ~~(b) Agents shall list any other health insurance policies they~~
2 ~~have sold to the applicant as follows:~~

- 3 ~~(1) List policies sold that are still in force.~~
- 4 ~~(2) List policies sold in the past five years that are no longer in~~
5 ~~force.~~

6 ~~(e) In the case of a direct response issuer, a copy of the~~
7 ~~application or supplemental form, signed by the applicant, and~~
8 ~~acknowledged by the issuer, shall be returned to the applicant by~~
9 ~~the issuer upon delivery of the policy.~~

10 ~~(d) Upon determining that a sale will involve replacement of~~
11 ~~Medicare supplement coverage, any issuer, other than a direct~~
12 ~~response issuer, or its agent, shall furnish the applicant, prior to~~
13 ~~issuance for delivery of the Medicare supplement policy or~~
14 ~~certificate, a notice regarding replacement of Medicare supplement~~
15 ~~coverage. One copy of the notice signed by the applicant and the~~
16 ~~agent, except where the coverage is sold without an agent, shall~~
17 ~~be provided to the applicant and an additional signed copy shall~~
18 ~~be retained by the issuer as provided in Section 10508. A direct~~
19 ~~response issuer shall deliver to the applicant at the time of the~~
20 ~~issuance of the policy the notice regarding replacement of Medicare~~
21 ~~supplement coverage.~~

22 ~~(e) The notice required by subdivision (d) for an issuer shall be~~
23 ~~in the form specified by the commissioner, using, to the extent~~
24 ~~practicable, a model notice prepared by the National Association~~
25 ~~of Insurance Commissioners for this purpose. The replacement~~
26 ~~notice shall be printed in no less than 12-point type in substantially~~
27 ~~the following form:~~

28 -
29

[Insurer's name and address]

30 -

31 **NOTICE TO APPLICANT REGARDING REPLACEMENT**
32 **OF MEDICARE SUPPLEMENT COVERAGE OR MEDICARE**
33 **ADVANTAGE**

34 -
35 **SAVE THIS NOTICE! IT MAY BE IMPORTANT IN THE**
36 **FUTURE.**

37 ~~If you intend to cancel or terminate existing Medicare supplement~~
38 ~~or Medicare Advantage insurance and replace it with coverage~~
39 ~~issued by [company name], please review the new coverage~~
40 ~~carefully and replace the existing coverage ONLY if the new~~

1 coverage materially improves your position. DO NOT CANCEL
2 YOUR PRESENT COVERAGE UNTIL YOU HAVE RECEIVED
3 YOUR NEW POLICY AND ARE SURE THAT YOU WANT
4 TO KEEP IT.

5 If you decide to purchase the new coverage, you will have 30
6 days after you receive the policy to return it to the insurer, for any
7 reason, and receive a refund of your money.

8 If you want to discuss buying Medicare supplement or Medicare
9 Advantage coverage with a trained insurance counselor, call the
10 California Department of Insurance's toll-free telephone number
11 1-800-927-HELP, and ask how to contact your local Health
12 Insurance Counseling and Advocacy Program (HICAP) office.
13 HICAP is a service provided free of charge by the State of
14 California.

15 STATEMENT TO APPLICANT FROM THE INSURER AND
16 AGENT: I have reviewed your current health insurance coverage.
17 To the best of my knowledge, the replacement of insurance
18 involved in this transaction does not duplicate coverage or, if
19 applicable, Medicare Advantage coverage because you intend to
20 terminate your existing Medicare supplement coverage or leave
21 your Medicare Advantage plan. In addition, the replacement
22 coverage contains benefits that are clearly and substantially greater
23 than your current benefits for the following reasons:

- 24 Additional benefits that are: _____
- 25 No change in benefits, but lower premiums.
- 26 Fewer benefits and lower premiums.
- 27 Plan has outpatient prescription drug coverage and applicant
28 is enrolled in Medicare Part D.
- 29 Disenrollment from a Medicare Advantage plan. Reasons for
30 disenrollment:
- 31 Other reasons specified here: _____

32 1. Note: If the issuer of the Medicare supplement policy being
33 applied for does not impose, or is otherwise prohibited from
34 imposing, preexisting condition limitations, please skip to statement
35 3 below. Health conditions that you may presently have
36 (preexisting conditions) may not be immediately or fully covered
37 under the new policy. This could result in denial or delay of a claim
38 for benefits under the new policy, whereas a similar claim might
39 have been payable under your present policy.

1 2. State law provides that your replacement Medicare supplement
 2 policy may not contain new preexisting conditions, waiting periods,
 3 elimination periods, or probationary periods. The insurer will waive
 4 any time periods applicable to preexisting conditions, waiting
 5 periods, elimination periods, or probationary periods in the new
 6 coverage for similar benefits to the extent that time was spent
 7 (depleted) under the original policy.

8 3. If you still wish to terminate your present policy and replace
 9 it with new coverage, be certain to truthfully and completely
 10 answer any and all questions on the application concerning your
 11 medical and health history. Failure to include all material medical
 12 information on an application requesting that information may
 13 provide a basis for the insurer to deny any future claims and to
 14 refund your premium as though your policy had never been in
 15 force. After the application has been completed and before you
 16 sign it, review it carefully to be certain that all information has
 17 been properly recorded. [If the policy or certificate is guaranteed
 18 issue, this paragraph need not appear.]

19 **DO NOT CANCEL YOUR PRESENT POLICY UNTIL YOU**
 20 **HAVE RECEIVED YOUR NEW POLICY AND ARE SURE**
 21 **THAT YOU WANT TO KEEP IT.**

22
 23 _____
 24 _____
 25 _____
 26 _____
 27 _____
 28 _____
 29 _____
 30 _____
 31 _____
 32 _____
 33 _____
 34 _____
 35 _____
 36 _____
 37 _____
 38 _____
 39 _____
 40 _____

(Signature of Agent, Broker, or Other Representative)

(Signature of Applicant)

(Date)

(f) No issuer, broker, agent, or other person shall cause an insured to replace a Medicare supplement insurance policy unnecessarily. In recommending replacement of any Medicare supplement insurance, an agent shall make reasonable efforts to determine the appropriateness to the potential insured.

(g) An issuer shall not require, request, or obtain health information as part of the application process for an applicant who is eligible for guaranteed issuance of, or open enrollment for, any Medicare supplement coverage pursuant to Section 10192.11 or 10192.12, except for purposes of paragraph (1) or (2) of subdivision (a) of Section 10192.11 when the applicant is first enrolled in

1 Medicare Part B. The application form shall include a clear and
2 conspicuous statement that the applicant is not required to provide
3 health information during a period where guaranteed issue or open
4 enrollment applies, as specified in Section 10192.11 or 10192.12,
5 except for purposes of paragraph (1) or (2) of subdivision (a) of
6 Section 10192.11 when the applicant is first enrolled in Medicare
7 Part B, and shall inform the applicant of those periods of
8 guaranteed issuance of Medicare supplement coverage. This
9 subdivision shall not prohibit an issuer from requiring proof of
10 eligibility for a guaranteed issuance of Medicare supplement
11 coverage.

12 *SEC. 18. Section 10169 of the Insurance Code, as added by*
13 *Section 8 of Chapter 872 of the Statutes of 2012, is amended to*
14 *read:*

15 10169. (a) Commencing January 1, 2001, there is hereby
16 established in the department the Independent Medical Review
17 System.

18 (b) For the purposes of this chapter, “disputed health care
19 service” means any health care service eligible for coverage and
20 payment under a disability insurance contract that has been denied,
21 modified, or delayed by a decision of the insurer, or by one of its
22 contracting providers, in whole or in part due to a finding that the
23 service is not medically necessary. A decision regarding a disputed
24 health care service relates to the practice of medicine and is not a
25 coverage decision. A disputed health care service does not include
26 services provided by a group or individual policy of vision-only
27 or dental-only coverage, except to the extent that (1) the service
28 involves the practice of medicine, or (2) is provided pursuant to a
29 contract with a disability insurer that covers hospital, medical, or
30 surgical benefits. If an insurer, or one of its contracting providers,
31 issues a decision denying, modifying, or delaying health care
32 services, based in whole or in part on a finding that the proposed
33 health care services are not a covered benefit under the contract
34 that applies to the insured, the statement of decision shall clearly
35 specify the provision in the contract that excludes that coverage.

36 (c) For the purposes of this chapter, “coverage decision” means
37 the approval or denial of health care services by a disability insurer,
38 or by one of its contracting entities, substantially based on a finding
39 that the provision of a particular service is included or excluded
40 as a covered benefit under the terms and conditions of the disability

1 insurance contract. A coverage decision does not encompass a
2 disability insurer or contracting provider decision regarding a
3 disputed health care service.

4 (d) (1) All insured grievances involving a disputed health care
5 service are eligible for review under the Independent Medical
6 Review System if the requirements of this article are met. If the
7 department finds that an insured grievance involving a disputed
8 health care service does not meet the requirements of this article
9 for review under the Independent Medical Review System, the
10 insured request for review shall be treated as a request for the
11 department to review the grievance. All other insured grievances,
12 including grievances involving coverage decisions, remain eligible
13 for review by the department.

14 (2) In any case in which an insured or provider asserts that a
15 decision to deny, modify, or delay health care services was based,
16 in whole or in part, on consideration of medical necessity, the
17 department shall have the final authority to determine whether the
18 grievance is more properly resolved pursuant to an independent
19 medical review as provided under this article.

20 (3) The department shall be the final arbiter when there is a
21 question as to whether an insured grievance is a disputed health
22 care service or a coverage decision. The department shall establish
23 a process to complete an initial screening of an insured grievance.
24 If there appears to be any medical necessity issue, the grievance
25 shall be resolved pursuant to an independent medical review as
26 provided under this article.

27 (e) Every disability insurance contract that is issued, amended,
28 renewed, or delivered in this state on or after January 1, 2000, shall
29 provide an insured with the opportunity to seek an independent
30 medical review whenever health care services have been denied,
31 modified, or delayed by the insurer, or by one of its contracting
32 providers, if the decision was based in whole or in part on a finding
33 that the proposed health care services are not medically necessary.
34 For purposes of this article, an insured may designate an agent to
35 act on his or her behalf. The provider may join with or otherwise
36 assist the insured in seeking an independent medical review, and
37 may advocate on behalf of the insured.

38 (f) Medicare beneficiaries enrolled in Medicare + Choice
39 products shall not be excluded unless expressly preempted by
40 federal law.

1 (g) The department may seek to integrate the quality of care
2 and consumer protection provisions, including remedies, of the
3 Independent Medical Review System with related dispute
4 resolution procedures of other health care agency programs,
5 including the Medicare program, in a way that minimizes the
6 potential for duplication, conflict, and added costs. Nothing in this
7 subdivision shall be construed to limit any rights conferred upon
8 insureds under this chapter.

9 (h) The independent medical review process authorized by this
10 article is in addition to any other procedures or remedies that may
11 be available.

12 (i) Every disability insurer shall prominently display in every
13 insurer member handbook or relevant informational brochure, in
14 every insurance contract, on insured evidence of coverage forms,
15 on copies of insurer procedures for resolving grievances, on letters
16 of denials issued by either the insurer or its contracting
17 organization, and on all written responses to grievances,
18 information concerning the right of an insured to request an
19 independent medical review ~~in cases where~~ *when* the insured
20 believes that health care services have been improperly denied,
21 modified, or delayed by the insurer, or by one of its contracting
22 providers.

23 (j) An insured may apply to the department for an independent
24 medical review when all of the following conditions are met:

25 (1) (A) The insured's provider has recommended a health care
26 service as medically necessary, or

27 (B) The insured has received urgent care or emergency services
28 that a provider determined was medically necessary, or

29 (C) The insured, in the absence of a provider recommendation
30 under subparagraph (A) or the receipt of urgent care or emergency
31 services by a provider under subparagraph (B), has been seen by
32 a contracting provider for the diagnosis or treatment of the medical
33 condition for which the insured seeks independent review. The
34 insurer shall expedite access to a contracting provider upon request
35 of an insured. The contracting provider need not recommend the
36 disputed health care service as a condition for the insured to be
37 eligible for an independent review.

38 For purposes of this article, the insured's provider may be a
39 noncontracting provider. However, the insurer shall have no

1 liability for payment of services provided by a noncontracting
2 provider, except as provided pursuant to Section 10169.3.

3 (2) The disputed health care service has been denied, modified,
4 or delayed by the insurer, or by one of its contracting providers,
5 based in whole or in part on a decision that the health care service
6 is not medically necessary.

7 (3) The insured has filed a grievance with the insurer or its
8 contracting provider, and the disputed decision is upheld or the
9 grievance remains unresolved after 30 days. The insured shall not
10 be required to participate in the insurer's grievance process for
11 more than 30 days. In the case of a grievance that requires
12 expedited review, the insured shall not be required to participate
13 in the insurer's grievance process for more than three days.

14 (k) An insured may apply to the department for an independent
15 medical review of a decision to deny, modify, or delay health care
16 services, based in whole or in part on a finding that the disputed
17 health care services are not medically necessary, within six months
18 of any of the qualifying periods or events under subdivision (j).
19 The commissioner may extend the application deadline beyond
20 six months if the circumstances of a case warrant the extension.

21 (l) The insured shall pay no application or processing fees of
22 any kind.

23 (m) As part of its notification to the insured regarding a
24 disposition of the insured's grievance that denies, modifies, or
25 delays health care services, the insurer shall provide the insured
26 with a one- or two-page application form approved by the
27 department, and an addressed envelope, which the insured may
28 return to initiate an independent medical review. The insurer shall
29 include on the form any information required by the department
30 to facilitate the completion of the independent medical review,
31 such as the insured's diagnosis or condition, the nature of the
32 disputed health care service sought by the insured, a means to
33 identify the insured's case, and any other material information.
34 The form shall also include the following:

35 (1) Notice that a decision not to participate in the independent
36 review process may cause the insured to forfeit any statutory right
37 to pursue legal action against the insurer regarding the disputed
38 health care service.

39 (2) A statement indicating the insured's consent to obtain any
40 necessary medical records from the insurer, any of its contracting

1 providers, and any noncontracting provider the insured may have
2 consulted on the matter, to be signed by the insured.

3 (3) Notice of the insured's right to provide information or
4 documentation, either directly or through the insured's provider,
5 regarding any of the following:

6 (A) A provider recommendation indicating that the disputed
7 health care service is medically necessary for the insured's medical
8 condition.

9 (B) Medical information or justification that a disputed health
10 care service, on an urgent care or emergency basis, was medically
11 necessary for the insured's medical condition.

12 (C) Reasonable information supporting the insured's position
13 that the disputed health care service is or was medically necessary
14 for the insured's medical condition, including all information
15 provided to the insured by the insurer or any of its contracting
16 providers, still in the possession of the insured, concerning an
17 insurer or provider decision regarding disputed health care services,
18 and a copy of any materials the insured submitted to the insurer,
19 still in the possession of the insured, in support of the grievance,
20 as well as any additional material that the insured believes is
21 relevant.

22 (4) A section designed to collect information on the insured's
23 ethnicity, race, and primary language spoken that includes both of
24 the following:

25 (A) A statement of intent indicating that the information is used
26 for statistics only, in order to ensure that all insureds get the best
27 care possible.

28 (B) A statement indicating that providing this information is
29 optional and will not affect the independent medical review process
30 in any way.

31 (n) Upon notice from the department that the insured has applied
32 for an independent medical review, the insurer or its contracting
33 providers, shall provide to the independent medical review
34 organization designated by the department a copy of all of the
35 following documents within three business days of the insurer's
36 receipt of the department's notice of a request by an insured for
37 an independent review:

38 (1) (A) A copy of all of the insured's medical records in the
39 possession of the insurer or its contracting providers relevant to
40 each of the following:

- 1 (i) The insured's medical condition.
2 (ii) The health care services being provided by the insurer and
3 its contracting providers for the condition.
4 (iii) The disputed health care services requested by the insured
5 for the condition.
6 (B) Any newly developed or discovered relevant medical records
7 in the possession of the insurer or its contracting providers after
8 the initial documents are provided to the independent medical
9 review organization shall be forwarded immediately to the
10 independent medical review organization. The insurer shall
11 concurrently provide a copy of medical records required by this
12 subparagraph to the insured or the insured's provider, if authorized
13 by the insured, unless the offer of medical records is declined or
14 otherwise prohibited by law. The confidentiality of all medical
15 record information shall be maintained pursuant to applicable state
16 and federal laws.
17 (2) A copy of all information provided to the insured by the
18 insurer and any of its contracting providers concerning insurer and
19 provider decisions regarding the insured's condition and care, and
20 a copy of any materials the insured or the insured's provider
21 submitted to the insurer and to the insurer's contracting providers
22 in support of the insured's request for disputed health care services.
23 This documentation shall include the written response to the
24 insured's grievance. The confidentiality of any insured medical
25 information shall be maintained pursuant to applicable state and
26 federal laws.
27 (3) A copy of any other relevant documents or information used
28 by the insurer or its contracting providers in determining whether
29 disputed health care services should have been provided, and any
30 statements by the insurer and its contracting providers explaining
31 the reasons for the decision to deny, modify, or delay disputed
32 health care services on the basis of medical necessity. The insurer
33 shall concurrently provide a copy of documents required by this
34 paragraph, except for any information found by the commissioner
35 to be legally privileged information, to the insured and the insured's
36 provider. The department and the independent medical review
37 organization shall maintain the confidentiality of any information
38 found by the commissioner to be the proprietary information of
39 the insurer.
40 (o) This section shall become operative on July 1, 2015.

1

(p) This section shall remain in effect only until January 1, 2017,
2 and as of that date is repealed, unless a later enacted statute, that
3 is enacted before January 1, 2017, deletes or extends that date.

4 SEC. 19. Section 10169 is added to the Insurance Code, to
5 read:

6 10169. (a) Commencing January 1, 2001, there is hereby
7 established in the department the Independent Medical Review
8 System.

9 (b) For the purposes of this chapter, “disputed health care
10 service” means any health care service eligible for coverage and
11 payment under a disability insurance contract that has been denied,
12 modified, or delayed by a decision of the insurer, or by one of its
13 contracting providers, in whole or in part due to a finding that the
14 service is not medically necessary. A decision regarding a disputed
15 health care service relates to the practice of medicine and is not
16 a coverage decision. A disputed health care service does not
17 include services provided by a group or individual policy of
18 vision-only or dental-only coverage, except to the extent that (1)
19 the service involves the practice of medicine, or (2) is provided
20 pursuant to a contract with a disability insurer that covers hospital,
21 medical, or surgical benefits. If an insurer, or one of its contracting
22 providers, issues a decision denying, modifying, or delaying health
23 care services, based in whole or in part on a finding that the
24 proposed health care services are not a covered benefit under the
25 contract that applies to the insured, the statement of decision shall
26 clearly specify the provision in the contract that excludes that
27 coverage.

28 (c) For the purposes of this chapter, “coverage decision” means
29 the approval or denial of health care services by a disability
30 insurer, or by one of its contracting entities, substantially based
31 on a finding that the provision of a particular service is included
32 or excluded as a covered benefit under the terms and conditions
33 of the disability insurance contract. A coverage decision does not
34 encompass a disability insurer or contracting provider decision
35 regarding a disputed health care service.

36 (d) (1) All insured grievances involving a disputed health care
37 service are eligible for review under the Independent Medical
38 Review System if the requirements of this article are met. If the
39 department finds that an insured grievance involving a disputed
40 health care service does not meet the requirements of this article

1 *for review under the Independent Medical Review System, the*
2 *insured request for review shall be treated as a request for the*
3 *department to review the grievance. All other insured grievances,*
4 *including grievances involving coverage decisions, remain eligible*
5 *for review by the department.*

6 (2) *In any case in which an insured or provider asserts that a*
7 *decision to deny, modify, or delay health care services was based,*
8 *in whole or in part, on consideration of medical necessity, the*
9 *department shall have the final authority to determine whether the*
10 *grievance is more properly resolved pursuant to an independent*
11 *medical review as provided under this article.*

12 (3) *The department shall be the final arbiter when there is a*
13 *question as to whether an insured grievance is a disputed health*
14 *care service or a coverage decision. The department shall establish*
15 *a process to complete an initial screening of an insured grievance.*
16 *If there appears to be any medical necessity issue, the grievance*
17 *shall be resolved pursuant to an independent medical review as*
18 *provided under this article.*

19 (e) *Every disability insurance contract that is issued, amended,*
20 *renewed, or delivered in this state on or after January 1, 2000,*
21 *shall provide an insured with the opportunity to seek an*
22 *independent medical review whenever health care services have*
23 *been denied, modified, or delayed by the insurer, or by one of its*
24 *contracting providers, if the decision was based in whole or in*
25 *part on a finding that the proposed health care services are not*
26 *medically necessary. For purposes of this article, an insured may*
27 *designate an agent to act on his or her behalf. The provider may*
28 *join with or otherwise assist the insured in seeking an independent*
29 *medical review, and may advocate on behalf of the insured.*

30 (f) *Medicare beneficiaries enrolled in Medicare + Choice*
31 *products shall not be excluded unless expressly preempted by*
32 *federal law.*

33 (g) *The department may seek to integrate the quality of care*
34 *and consumer protection provisions, including remedies, of the*
35 *Independent Medical Review System with related dispute resolution*
36 *procedures of other health care agency programs, including the*
37 *Medicare program, in a way that minimizes the potential for*
38 *duplication, conflict, and added costs. Nothing in this subdivision*
39 *shall be construed to limit any rights conferred upon insureds*
40 *under this chapter.*

1 (h) *The independent medical review process authorized by this*
2 *article is in addition to any other procedures or remedies that may*
3 *be available.*

4 (i) *Every disability insurer shall prominently display in every*
5 *insurer member handbook or relevant informational brochure, in*
6 *every insurance contract, on insured evidence of coverage forms,*
7 *on copies of insurer procedures for resolving grievances, on letters*
8 *of denials issued by either the insurer or its contracting*
9 *organization, and on all written responses to grievances,*
10 *information concerning the right of an insured to request an*
11 *independent medical review when the insured believes that health*
12 *care services have been improperly denied, modified, or delayed*
13 *by the insurer, or by one of its contracting providers. The*
14 *department's telephone number, 1-800-927-4357, and Internet*
15 *Web site, www.insurance.ca.gov, shall also be displayed.*

16 (j) *An insured may apply to the department for an independent*
17 *medical review when all of the following conditions are met:*

18 (1) (A) *The insured's provider has recommended a health care*
19 *service as medically necessary, or*

20 (B) *The insured has received urgent care or emergency services*
21 *that a provider determined was medically necessary, or*

22 (C) *The insured, in the absence of a provider recommendation*
23 *under subparagraph (A) or the receipt of urgent care or emergency*
24 *services by a provider under subparagraph (B), has been seen by*
25 *a contracting provider for the diagnosis or treatment of the medical*
26 *condition for which the insured seeks independent review. The*
27 *insurer shall expedite access to a contracting provider upon*
28 *request of an insured. The contracting provider need not*
29 *recommend the disputed health care service as a condition for the*
30 *insured to be eligible for an independent review.*

31 *For purposes of this article, the insured's provider may be a*
32 *noncontracting provider. However, the insurer shall have no*
33 *liability for payment of services provided by a noncontracting*
34 *provider, except as provided pursuant to Section 10169.3.*

35 (2) *The disputed health care service has been denied, modified,*
36 *or delayed by the insurer, or by one of its contracting providers,*
37 *based in whole or in part on a decision that the health care service*
38 *is not medically necessary.*

39 (3) *The insured has filed a grievance with the insurer or its*
40 *contracting provider, and the disputed decision is upheld or the*

1 *grievance remains unresolved after 30 days. The insured shall not*
2 *be required to participate in the insurer's grievance process for*
3 *more than 30 days. In the case of a grievance that requires*
4 *expedited review, the insured shall not be required to participate*
5 *in the insurer's grievance process for more than three days.*

6 *(k) An insured may apply to the department for an independent*
7 *medical review of a decision to deny, modify, or delay health care*
8 *services, based in whole or in part on a finding that the disputed*
9 *health care services are not medically necessary, within six months*
10 *of any of the qualifying periods or events under subdivision (j).*
11 *The commissioner may extend the application deadline beyond six*
12 *months if the circumstances of a case warrant the extension.*

13 *(l) The insured shall pay no application or processing fees of*
14 *any kind.*

15 *(m) As part of its notification to the insured regarding a*
16 *disposition of the insured's grievance that denies, modifies, or*
17 *delays health care services, the insurer shall provide the insured*
18 *with a one- or two-page application form approved by the*
19 *department, and an addressed envelope, which the insured may*
20 *return to initiate an independent medical review. The insurer shall*
21 *include on the form any information required by the department*
22 *to facilitate the completion of the independent medical review,*
23 *such as the insured's diagnosis or condition, the nature of the*
24 *disputed health care service sought by the insured, a means to*
25 *identify the insured's case, and any other material information.*
26 *The form shall also include the following:*

27 *(1) Notice that a decision not to participate in the independent*
28 *review process may cause the insured to forfeit any statutory right*
29 *to pursue legal action against the insurer regarding the disputed*
30 *health care service.*

31 *(2) A statement indicating the insured's consent to obtain any*
32 *necessary medical records from the insurer, any of its contracting*
33 *providers, and any noncontracting provider the insured may have*
34 *consulted on the matter, to be signed by the insured.*

35 *(3) Notice of the insured's right to provide information or*
36 *documentation, either directly or through the insured's provider,*
37 *regarding any of the following:*

38 *(A) A provider recommendation indicating that the disputed*
39 *health care service is medically necessary for the insured's medical*
40 *condition.*

1 (B) Medical information or justification that a disputed health
2 care service, on an urgent care or emergency basis, was medically
3 necessary for the insured's medical condition.

4 (C) Reasonable information supporting the insured's position
5 that the disputed health care service is or was medically necessary
6 for the insured's medical condition, including all information
7 provided to the insured by the insurer or any of its contracting
8 providers, still in the possession of the insured, concerning an
9 insurer or provider decision regarding disputed health care
10 services, and a copy of any materials the insured submitted to the
11 insurer, still in the possession of the insured, in support of the
12 grievance, as well as any additional material that the insured
13 believes is relevant.

14 (4) A section designed to collect information on the insured's
15 ethnicity, race, and primary language spoken that includes both
16 of the following:

17 (A) A statement of intent indicating that the information is used
18 for statistics only, in order to ensure that all insureds get the best
19 care possible.

20 (B) A statement indicating that providing this information is
21 optional and will not affect the independent medical review process
22 in any way.

23 (n) Upon notice from the department that the insured has applied
24 for an independent medical review, the insurer or its contracting
25 providers, shall provide to the independent medical review
26 organization designated by the department a copy of all of the
27 following documents within three business days of the insurer's
28 receipt of the department's notice of a request by an insured for
29 an independent review:

30 (1) (A) A copy of all of the insured's medical records in the
31 possession of the insurer or its contracting providers relevant to
32 each of the following:

33 (i) The insured's medical condition.

34 (ii) The health care services being provided by the insurer and
35 its contracting providers for the condition.

36 (iii) The disputed health care services requested by the insured
37 for the condition.

38 (B) Any newly developed or discovered relevant medical records
39 in the possession of the insurer or its contracting providers after
40 the initial documents are provided to the independent medical

1 review organization shall be forwarded immediately to the
2 independent medical review organization. The insurer shall
3 concurrently provide a copy of medical records required by this
4 subparagraph to the insured or the insured's provider, if authorized
5 by the insured, unless the offer of medical records is declined or
6 otherwise prohibited by law. The confidentiality of all medical
7 record information shall be maintained pursuant to applicable
8 state and federal laws.

9 (2) A copy of all information provided to the insured by the
10 insurer and any of its contracting providers concerning insurer
11 and provider decisions regarding the insured's condition and care,
12 and a copy of any materials the insured or the insured's provider
13 submitted to the insurer and to the insurer's contracting providers
14 in support of the insured's request for disputed health care
15 services. This documentation shall include the written response
16 to the insured's grievance. The confidentiality of any insured
17 medical information shall be maintained pursuant to applicable
18 state and federal laws.

19 (3) A copy of any other relevant documents or information used
20 by the insurer or its contracting providers in determining whether
21 disputed health care services should have been provided, and any
22 statements by the insurer and its contracting providers explaining
23 the reasons for the decision to deny, modify, or delay disputed
24 health care services on the basis of medical necessity. The insurer
25 shall concurrently provide a copy of documents required by this
26 paragraph, except for any information found by the commissioner
27 to be legally privileged information, to the insured and the
28 insured's provider. The department and the independent medical
29 review organization shall maintain the confidentiality of any
30 information found by the commissioner to be the proprietary
31 information of the insurer.

32 (o) This section shall become operative on January 1, 2017.

33 SEC. 20. Section 10192.18 of the Insurance Code is amended
34 to read:

35 10192.18. (a) Application forms shall include the following
36 questions designed to elicit information as to whether, as of the
37 date of the application, the applicant currently has Medicare
38 supplement, Medicare Advantage, Medi-Cal coverage, or another
39 health insurance policy or certificate in force or whether a Medicare
40 supplement policy or certificate is intended to replace any other

1 disability policy or certificate presently in force. A supplementary
2 application or other form to be signed by the applicant and agent
3 containing those questions and statements may be used.

4
5
6

(Statements)

7 (1) You do not need more than one Medicare supplement policy.

8 (2) If you purchase this policy, you may want to evaluate your
9 existing health coverage and decide if you need multiple coverages.

10 (3) You may be eligible for benefits under Medi-Cal and may
11 not need a Medicare supplement policy.

12 (4) If after purchasing this policy you become eligible for
13 Medi-Cal, the benefits and premiums under your Medicare
14 supplement policy can be suspended, if requested, during your
15 entitlement to benefits under Medi-Cal for 24 months. You must
16 request this suspension within 90 days of becoming eligible for
17 Medi-Cal. If you are no longer entitled to Medi-Cal, your
18 suspended Medicare supplement policy or if that is no longer
19 available, a substantially equivalent policy, will be reinstated if
20 requested within 90 days of losing Medi-Cal eligibility. If the
21 Medicare supplement policy provided coverage for outpatient
22 prescription drugs and you enrolled in Medicare Part D while your
23 policy was suspended, the reinstated policy will not have
24 outpatient prescription drug coverage, but will otherwise be
25 substantially equivalent to your coverage before the date of the
26 suspension.

27 (5) If you are eligible for, and have enrolled in, a Medicare
28 supplement policy by reason of disability and you later become
29 covered by an employer or union-based group health plan, the
30 benefits and premiums under your Medicare supplement policy
31 can be suspended, if requested, while you are covered under the
32 employer or union-based group health plan. If you suspend your
33 Medicare supplement policy under these circumstances and later
34 lose your employer or union-based group health plan, your
35 suspended Medicare supplement policy or if that is no longer
36 available, a substantially equivalent policy, will be reinstated if
37 requested within 90 days of losing your employer or union-based
38 group health plan. If the Medicare supplement policy provided
39 coverage for outpatient prescription drugs and you enrolled in
40 Medicare Part D while your policy was suspended, the reinstated

1 policy will not have outpatient prescription drug coverage, but will
2 otherwise be substantially equivalent to your coverage before the
3 date of the suspension.

4 (6) Counseling services are available in this state to provide
5 advice concerning your purchase of Medicare supplement insurance
6 and concerning medical assistance through the Medi-Cal program,
7 including benefits as a qualified Medicare beneficiary (QMB) and
8 a specified low-income Medicare beneficiary (SLMB). If you want
9 to discuss buying Medicare supplement insurance with a trained
10 insurance counselor, call the California Department of Insurance's
11 toll-free telephone number 1-800-927-HELP, and ask how to
12 contact your local Health Insurance Counseling and Advocacy
13 Program (HICAP) office. HICAP is a service provided free of
14 charge by the State of California.

15
16 (Questions)

17
18 If you lost or are losing other health insurance coverage and
19 received a notice from your prior insurer saying you were eligible
20 for guaranteed issue of a Medicare supplement insurance policy
21 or that you had certain rights to buy such a policy, you may be
22 guaranteed acceptance in one or more of our Medicare supplement
23 plans. Please include a copy of the notice from your prior insurer
24 with your application. PLEASE ANSWER ALL QUESTIONS.

25 [Please mark Yes or No below with an "X."]

26 To the best of your knowledge,

27 (1) (a) Did you turn 65 years of age in the last ~~6 months~~ *months*.

28 Yes ___ No ___

29 (b) Did you enroll in Medicare Part B in the last ~~6 months~~
30 *months*.

31 Yes ___ No ___

32 (c) If yes, what is the effective ~~date~~
33 *date*. _____

34 (2) Are you covered for medical assistance through California's
35 ~~Medi-Cal program~~ *program*.

36 NOTE TO APPLICANT: If you have a share of cost under the
37 Medi-Cal program, please answer NO to this question.

38 Yes ___ No ___

39 If yes,

1 (a) Will Medi-Cal pay your premiums for this Medicare
2 supplement ~~policy~~ *policy*.

3 Yes ___ No ___

4 (b) Do you receive benefits from Medi-Cal OTHER THAN
5 payments toward your Medicare Part B ~~premium~~ *premium*.

6 Yes ___ No ___

7 (3) (a) If you had coverage from any Medicare plan other than
8 original Medicare within the past 63 days (for example, a Medicare
9 Advantage plan or a Medicare HMO or PPO), fill in your start and
10 end dates below. If you are still covered under this plan, leave
11 "END" blank.

12 START ___/___/___ END ___/___/___

13 (b) If you are still covered under the Medicare plan, do you
14 intend to replace your current coverage with this new Medicare
15 supplement ~~policy~~ *policy*.

16 Yes ___ No ___

17 (c) Was this your first time in this type of Medicare ~~plan~~ *plan*.

18 Yes ___ No ___

19 (d) Did you drop a Medicare supplement policy to enroll in the
20 Medicare ~~plan~~ *plan*.

21 Yes ___ No ___

22 (4) (a) Do you have another Medicare supplement policy in
23 ~~force~~ *force*.

24 Yes ___ No ___

25 (b) If so, with what company, and what plan do you ~~have~~ *have*.
26 [optional for direct mailers]

27 Yes ___ No ___

28 (c) If so, do you intend to replace your current Medicare
29 supplement policy with this ~~policy~~ *policy*.

30 Yes ___ No ___

31 (5) Have you had coverage under any other health insurance
32 within the past 63 days (For example, an employer, union, or
33 individual ~~plan~~) *plan*).

34 Yes ___ No ___

35 (a) If so, with what companies and what kind of ~~policy~~ *policy*.

36 _____
37 _____
38 _____
39 _____

1 (b) What are your dates of coverage under the other ~~policy~~
2 *policy*.

3 START __/__/__ END __/__/__

4 (If you are still covered under the other policy, leave “END”
5 blank.)

6
7 (b) Agents shall list any other health insurance policies they
8 have sold to the applicant as follows:

9 (1) List policies sold that are still in force.

10 (2) List policies sold in the past five years that are no longer in
11 force.

12 (c) In the case of a direct response issuer, a copy of the
13 application or supplemental form, signed by the applicant, and
14 acknowledged by the issuer, shall be returned to the applicant by
15 the issuer upon delivery of the policy.

16 (d) Upon determining that a sale will involve replacement of
17 Medicare supplement coverage, any issuer, other than a direct
18 response issuer, or its agent, shall furnish the applicant, prior to
19 issuance for delivery of the Medicare supplement policy or
20 certificate, a notice regarding replacement of Medicare supplement
21 coverage. One copy of the notice signed by the applicant and the
22 agent, ~~except where~~ *when* the coverage is sold without an agent,
23 shall be provided to the applicant and an additional signed copy
24 shall be retained by the issuer as provided in Section 10508. A
25 direct response issuer shall deliver to the applicant at the time of
26 the issuance of the policy the notice regarding replacement of
27 Medicare supplement coverage.

28 (e) The notice required by subdivision (d) for an issuer shall be
29 in the form specified by the commissioner, using, to the extent
30 practicable, a model notice prepared by the National Association
31 of Insurance Commissioners for this purpose. The replacement
32 notice shall be printed in no less than 12-point type in substantially
33 the following form:

34
35 [Insurer’s name and address]

36
37 NOTICE TO APPLICANT REGARDING REPLACEMENT
38 OF MEDICARE SUPPLEMENT COVERAGE OR MEDICARE
39 ADVANTAGE
40

1 SAVE THIS NOTICE! IT MAY BE IMPORTANT IN THE
2 FUTURE.

3 If you intend to cancel or terminate existing Medicare supplement
4 or Medicare Advantage insurance and replace it with coverage
5 issued by [company name], please review the new coverage
6 carefully and replace the existing coverage ONLY if the new
7 coverage materially improves your position. DO NOT CANCEL
8 YOUR PRESENT COVERAGE UNTIL YOU HAVE RECEIVED
9 YOUR NEW POLICY AND ARE SURE THAT YOU WANT
10 TO KEEP IT.

11 If you decide to purchase the new coverage, you will have 30
12 days after you receive the policy to return it to the insurer, for any
13 reason, and receive a refund of your money.

14 If you want to discuss buying Medicare supplement or Medicare
15 Advantage coverage with a trained insurance counselor, call the
16 California Department of Insurance’s toll-free telephone number
17 1-800-927-HELP, and ask how to contact your local Health
18 Insurance Counseling and Advocacy Program (HICAP) office.
19 HICAP is a service provided free of charge by the State of
20 California.

21 STATEMENT TO APPLICANT FROM THE INSURER AND
22 AGENT: I have reviewed your current health insurance coverage.
23 To the best of my knowledge, the replacement of insurance
24 involved in this transaction does not duplicate coverage or, if
25 applicable, Medicare Advantage coverage because you intend to
26 terminate your existing Medicare supplement coverage or leave
27 your Medicare Advantage plan. In addition, the replacement
28 coverage contains benefits that are clearly and substantially greater
29 than your current benefits for the following reasons:

- 30 Additional benefits that are: _____
- 31 No change in benefits, but lower premiums.
- 32 Fewer benefits and lower premiums.
- 33 Plan has outpatient prescription drug coverage and applicant
34 is enrolled in Medicare Part D.
- 35 Disenrollment from a Medicare Advantage plan. Reasons for
36 disenrollment:
- 37 Other reasons specified here: _____

38 1. Note: If the issuer of the Medicare supplement policy being
39 applied for does not impose, or is otherwise prohibited from
40 imposing, preexisting condition limitations, please skip to statement

1 3 below. Health conditions that you may presently have
 2 (preexisting conditions) may not be immediately or fully covered
 3 under the new policy. This could result in denial or delay of a claim
 4 for benefits under the new policy, whereas a similar claim might
 5 have been payable under your present policy.

6 2. State law provides that your replacement Medicare supplement
 7 policy may not contain new preexisting conditions, waiting periods,
 8 elimination periods, or probationary periods. The insurer will waive
 9 any time periods applicable to preexisting conditions, waiting
 10 periods, elimination periods, or probationary periods in the new
 11 coverage for similar benefits to the extent that time was spent
 12 (depleted) under the original policy.

13 3. If you still wish to terminate your present policy and replace
 14 it with new coverage, be certain to truthfully and completely
 15 answer any and all questions on the application concerning your
 16 medical and health history. Failure to include all material medical
 17 information on an application requesting that information may
 18 provide a basis for the insurer to deny any future claims and to
 19 refund your premium as though your policy had never been in
 20 force. After the application has been completed and before you
 21 sign it, review it carefully to be certain that all information has
 22 been properly recorded. [If the policy or certificate is guaranteed
 23 issue, this paragraph need not appear.]

24 **DO NOT CANCEL YOUR PRESENT POLICY UNTIL YOU**
 25 **HAVE RECEIVED YOUR NEW POLICY AND ARE SURE**
 26 **THAT YOU WANT TO KEEP IT.**

27 _____
 28

(Signature of Agent, Broker, or Other Representative)

29 _____
 30

(Signature of Applicant)

31 _____
 32

(Date)

33
 34
 35 (f) No issuer, broker, agent, or other person shall cause an
 36 insured to replace a Medicare supplement insurance policy
 37 unnecessarily. In recommending replacement of any Medicare
 38 supplement insurance, an agent shall make reasonable efforts to
 39 determine the appropriateness to the potential insured.

1 (g) An issuer shall not require, request, or obtain health
 2 information as part of the application process for an applicant who
 3 is eligible for guaranteed issuance of, or open enrollment for, any
 4 Medicare supplement coverage pursuant to Section 10192.11 or
 5 10192.12, except for purposes of paragraph (1) or (2) of subdivision
 6 (a) of Section 10192.11 when the applicant is first enrolled in
 7 Medicare Part B. The application form shall include a clear and
 8 conspicuous statement that the applicant is not required to provide
 9 health information during a period where guaranteed issue or open
 10 enrollment applies, as specified in Section 10192.11 or 10192.12,
 11 except for purposes of paragraph (1) or (2) of subdivision (a) of
 12 Section 10192.11 when the applicant is first enrolled in Medicare
 13 Part B, and shall inform the applicant of those periods of
 14 guaranteed issuance of Medicare supplement coverage. This
 15 subdivision shall not prohibit an issuer from requiring proof of
 16 eligibility for a guaranteed issuance of Medicare supplement
 17 coverage.

18 (h) *This section shall remain in effect only until January 1, 2017,*
 19 *and as of that date is repealed, unless a later enacted statute, that*
 20 *is enacted before January 1, 2017, deletes or extends that date.*

21 *SEC. 21. Section 10192.18 is added to the Insurance Code, to*
 22 *read:*

23 *10192.18. (a) Application forms shall include the following*
 24 *questions designed to elicit information as to whether, as of the*
 25 *date of the application, the applicant currently has Medicare*
 26 *supplement, Medicare Advantage, Medi-Cal coverage, or another*
 27 *health insurance policy or certificate in force or whether a*
 28 *Medicare supplement policy or certificate is intended to replace*
 29 *any other disability policy or certificate presently in force. A*
 30 *supplementary application or other form to be signed by the*
 31 *applicant and agent containing those questions and statements*
 32 *may be used.*

33
 34 (Statements)

- 35
 36 (1) *You do not need more than one Medicare supplement policy.*
 37 (2) *If you purchase this policy, you may want to evaluate your*
 38 *existing health coverage and decide if you need multiple coverages.*
 39 (3) *You may be eligible for benefits under Medi-Cal and may*
 40 *not need a Medicare supplement policy.*

1 (4) If after purchasing this policy you become eligible for
2 Medi-Cal, the benefits and premiums under your Medicare
3 supplement policy can be suspended, if requested, during your
4 entitlement to benefits under Medi-Cal for 24 months. You must
5 request this suspension within 90 days of becoming eligible for
6 Medi-Cal. If you are no longer entitled to Medi-Cal, your
7 suspended Medicare supplement policy or if that is no longer
8 available, a substantially equivalent policy, will be reinstated if
9 requested within 90 days of losing Medi-Cal eligibility. If the
10 Medicare supplement policy provided coverage for outpatient
11 prescription drugs and you enrolled in Medicare Part D while
12 your policy was suspended, the reinstated policy will not have
13 outpatient prescription drug coverage, but will otherwise be
14 substantially equivalent to your coverage before the date of the
15 suspension.

16 (5) If you are eligible for, and have enrolled in, a Medicare
17 supplement policy by reason of disability and you later become
18 covered by an employer or union-based group health plan, the
19 benefits and premiums under your Medicare supplement policy
20 can be suspended, if requested, while you are covered under the
21 employer or union-based group health plan. If you suspend your
22 Medicare supplement policy under these circumstances and later
23 lose your employer or union-based group health plan, your
24 suspended Medicare supplement policy or if that is no longer
25 available, a substantially equivalent policy, will be reinstated if
26 requested within 90 days of losing your employer or union-based
27 group health plan. If the Medicare supplement policy provided
28 coverage for outpatient prescription drugs and you enrolled in
29 Medicare Part D while your policy was suspended, the reinstated
30 policy will not have outpatient prescription drug coverage, but
31 will otherwise be substantially equivalent to your coverage before
32 the date of the suspension.

33 (6) Counseling services are available in this state to provide
34 advice concerning your purchase of Medicare supplement
35 insurance and concerning medical assistance through the Medi-Cal
36 program, including benefits as a qualified Medicare beneficiary
37 (QMB) and a specified low-income Medicare beneficiary (SLMB).
38 If you want to discuss buying Medicare supplement insurance with
39 a trained insurance counselor, call the California Department of
40 Insurance's toll-free telephone number 1-800-927-HELP, or access

1 the department’s Internet Web site, *www.insurance.ca.gov*, and
2 ask how to contact your local Health Insurance Counseling and
3 Advocacy Program (HICAP) office. HICAP is a service provided
4 free of charge by the State of California.

5

6

(Questions)

7

8 If you lost or are losing other health insurance coverage and
9 received a notice from your prior insurer saying you were eligible
10 for guaranteed issue of a Medicare supplement insurance policy
11 or that you had certain rights to buy such a policy, you may be
12 guaranteed acceptance in one or more of our Medicare supplement
13 plans. Please include a copy of the notice from your prior insurer
14 with your application. PLEASE ANSWER ALL QUESTIONS.

15 [Please mark Yes or No below with an “X.”]

16 To the best of your knowledge,

17 (1) (a) Did you turn 65 years of age in the last 6 months.

18 Yes ___ No ___

19 (b) Did you enroll in Medicare Part B in the last 6 months.

20 Yes ___ No ___

21 (c) If yes, what is the effective date. _____

22 (2) Are you covered for medical assistance through California’s
23 Medi-Cal program.

24 NOTE TO APPLICANT: If you have a share of cost under the
25 Medi-Cal program, please answer NO to this question.

26 Yes ___ No ___

27 If yes,

28 (a) Will Medi-Cal pay your premiums for this Medicare
29 supplement policy.

30 Yes ___ No ___

31 (b) Do you receive benefits from Medi-Cal OTHER THAN
32 payments toward your Medicare Part B premium.

33 Yes ___ No ___

34 (3) (a) If you had coverage from any Medicare plan other than
35 original Medicare within the past 63 days (for example, a Medicare
36 Advantage plan or a Medicare HMO or PPO), fill in your start
37 and end dates below. If you are still covered under this plan, leave
38 “END” blank.

39 START ___/___/___ END ___/___/___

1 (b) If you are still covered under the Medicare plan, do you
2 intend to replace your current coverage with this new Medicare
3 supplement policy.

4 Yes ___ No ___

5 (c) Was this your first time in this type of Medicare plan.

6 Yes ___ No ___

7 (d) Did you drop a Medicare supplement policy to enroll in the
8 Medicare plan.

9 Yes ___ No ___

10 (4) (a) Do you have another Medicare supplement policy in
11 force.

12 Yes ___ No ___

13 (b) If so, with what company, and what plan do you have.
14 [optional for direct mailers]

15 Yes ___ No ___

16 (c) If so, do you intend to replace your current Medicare
17 supplement policy with this policy.

18 Yes ___ No ___

19 (5) Have you had coverage under any other health insurance
20 within the past 63 days (For example, an employer, union, or
21 individual plan).

22 Yes ___ No ___

23 (a) If so, with what companies and what kind of policy.

24 _____
25 _____
26 _____
27 _____

28 (b) What are your dates of coverage under the other policy.

29 START ___/___/___ END ___/___/___

30 (If you are still covered under the other policy, leave "END"
31 blank.)

32

33 (b) Agents shall list any other health insurance policies they
34 have sold to the applicant as follows:

35 (1) List policies sold that are still in force.

36 (2) List policies sold in the past five years that are no longer in
37 force.

38 (c) In the case of a direct response issuer, a copy of the
39 application or supplemental form, signed by the applicant, and

1 *acknowledged by the issuer, shall be returned to the applicant by*
 2 *the issuer upon delivery of the policy.*

3 *(d) Upon determining that a sale will involve replacement of*
 4 *Medicare supplement coverage, any issuer, other than a direct*
 5 *response issuer, or its agent, shall furnish the applicant, prior to*
 6 *issuance for delivery of the Medicare supplement policy or*
 7 *certificate, a notice regarding replacement of Medicare supplement*
 8 *coverage. One copy of the notice signed by the applicant and the*
 9 *agent, except when the coverage is sold without an agent, shall be*
 10 *provided to the applicant and an additional signed copy shall be*
 11 *retained by the issuer as provided in Section 10508. A direct*
 12 *response issuer shall deliver to the applicant at the time of the*
 13 *issuance of the policy the notice regarding replacement of*
 14 *Medicare supplement coverage.*

15 *(e) The notice required by subdivision (d) for an issuer shall be*
 16 *in the form specified by the commissioner, using, to the extent*
 17 *practicable, a model notice prepared by the National Association*
 18 *of Insurance Commissioners for this purpose. The replacement*
 19 *notice shall be printed in no less than 12-point type in substantially*
 20 *the following form:*

21
 22 *[Insurer's name and address]*

23
 24 **NOTICE TO APPLICANT REGARDING REPLACEMENT OF**
 25 **MEDICARE SUPPLEMENT COVERAGE OR MEDICARE**
 26 **ADVANTAGE**

27
 28 **SAVE THIS NOTICE! IT MAY BE IMPORTANT IN THE**
 29 **FUTURE.**

30 *If you intend to cancel or terminate existing Medicare supplement*
 31 *or Medicare Advantage insurance and replace it with coverage*
 32 *issued by [company name], please review the new coverage*
 33 *carefully and replace the existing coverage ONLY if the new*
 34 *coverage materially improves your position. DO NOT CANCEL*
 35 *YOUR PRESENT COVERAGE UNTIL YOU HAVE RECEIVED*
 36 *YOUR NEW POLICY AND ARE SURE THAT YOU WANT TO*
 37 *KEEP IT.*

38 *If you decide to purchase the new coverage, you will have 30*
 39 *days after you receive the policy to return it to the insurer, for any*
 40 *reason, and receive a refund of your money.*

1 *If you want to discuss buying Medicare supplement or Medicare*
2 *Advantage coverage with a trained insurance counselor, call the*
3 *California Department of Insurance’s toll-free telephone number*
4 *1-800-927-HELP, and ask how to contact your local Health*
5 *Insurance Counseling and Advocacy Program (HICAP) office.*
6 *HICAP is a service provided free of charge by the State of*
7 *California.*

8 **STATEMENT TO APPLICANT FROM THE INSURER AND**
9 **AGENT:** *I have reviewed your current health insurance coverage.*
10 *To the best of my knowledge, the replacement of insurance involved*
11 *in this transaction does not duplicate coverage or, if applicable,*
12 *Medicare Advantage coverage because you intend to terminate*
13 *your existing Medicare supplement coverage or leave your*
14 *Medicare Advantage plan. In addition, the replacement coverage*
15 *contains benefits that are clearly and substantially greater than*
16 *your current benefits for the following reasons:*

17 *___ Additional benefits that are: _____*

18 *___ No change in benefits, but lower premiums.*

19 *___ Fewer benefits and lower premiums.*

20 *___ Plan has outpatient prescription drug coverage and applicant*
21 *is enrolled in Medicare Part D.*

22 *___ Disenrollment from a Medicare Advantage plan. Reasons for*
23 *disenrollment:*

24 *___ Other reasons specified here: _____*

25 *1. Note: If the issuer of the Medicare supplement policy being*
26 *applied for does not impose, or is otherwise prohibited from*
27 *imposing, preexisting condition limitations, please skip to statement*
28 *3 below. Health conditions that you may presently have (preexisting*
29 *conditions) may not be immediately or fully covered under the new*
30 *policy. This could result in denial or delay of a claim for benefits*
31 *under the new policy, whereas a similar claim might have been*
32 *payable under your present policy.*

33 *2. State law provides that your replacement Medicare supplement*
34 *policy may not contain new preexisting conditions, waiting periods,*
35 *elimination periods, or probationary periods. The insurer will*
36 *waive any time periods applicable to preexisting conditions,*
37 *waiting periods, elimination periods, or probationary periods in*
38 *the new coverage for similar benefits to the extent that time was*
39 *spent (depleted) under the original policy.*

1 3. If you still wish to terminate your present policy and replace
 2 it with new coverage, be certain to truthfully and completely
 3 answer any and all questions on the application concerning your
 4 medical and health history. Failure to include all material medical
 5 information on an application requesting that information may
 6 provide a basis for the insurer to deny any future claims and to
 7 refund your premium as though your policy had never been in
 8 force. After the application has been completed and before you
 9 sign it, review it carefully to be certain that all information has
 10 been properly recorded. [If the policy or certificate is guaranteed
 11 issue, this paragraph need not appear.]

12 **DO NOT CANCEL YOUR PRESENT POLICY UNTIL YOU**
 13 **HAVE RECEIVED YOUR NEW POLICY AND ARE SURE THAT**
 14 **YOU WANT TO KEEP IT.**

15 _____
 16

17 (Signature of Agent, Broker, or Other Representative)

18 _____
 19

19 (Signature of Applicant)

20 _____
 21

21 (Date)

22
 23 (f) No issuer, broker, agent, or other person shall cause an
 24 insured to replace a Medicare supplement insurance policy
 25 unnecessarily. In recommending replacement of any Medicare
 26 supplement insurance, an agent shall make reasonable efforts to
 27 determine the appropriateness to the potential insured.

28 (g) An issuer shall not require, request, or obtain health
 29 information as part of the application process for an applicant
 30 who is eligible for guaranteed issuance of, or open enrollment for,
 31 any Medicare supplement coverage pursuant to Section 10192.11
 32 or 10192.12, except for purposes of paragraph (1) or (2) of
 33 subdivision (a) of Section 10192.11 when the applicant is first
 34 enrolled in Medicare Part B. The application form shall include
 35 a clear and conspicuous statement that the applicant is not required
 36 to provide health information during a period where guaranteed
 37 issue or open enrollment applies, as specified in Section 10192.11
 38 or 10192.12, except for purposes of paragraph (1) or (2) of
 39 subdivision (a) of Section 10192.11 when the applicant is first
 40 enrolled in Medicare Part B, and shall inform the applicant of

1 *those periods of guaranteed issuance of Medicare supplement*
2 *coverage. This subdivision shall not prohibit an issuer from*
3 *requiring proof of eligibility for a guaranteed issuance of Medicare*
4 *supplement coverage.*

5 *(h) This section shall become operative on January 1, 2017.*

6 ~~SEC. 14.~~

7 SEC. 22. Section 10232.3 of the Insurance Code is amended
8 to read:

9 10232.3. (a) All applications for long-term care insurance
10 except that which is guaranteed issue, shall contain clear,
11 unambiguous, short, simple questions designed to ascertain the
12 health condition of the applicant. Each question shall contain only
13 one health status inquiry and shall require only a “yes” or “no”
14 answer, except that the application may include a request for the
15 name of any prescribed medication and the name of a prescribing
16 physician. If the application requests the name of any prescribed
17 medication or prescribing physician, then any mistake or omission
18 shall not be used as a basis for the denial of a claim or the
19 rescission of a policy or certificate.

20 (b) The following warning shall be printed conspicuously and
21 in close conjunction with the applicant’s signature block:

22 “Caution: If your answers on this application are misstated or
23 untrue, the insurer may have the right to deny benefits or rescind
24 your coverage.”

25 (c) Every application for long-term care insurance shall include
26 a checklist that enumerates each of the specific documents that
27 this chapter requires be given to the applicant at the time of
28 solicitation. The documents and notices to be listed in the checklist
29 include, but are not limited to, the following:

30 (1) The outline of coverage pursuant to Section 10233.5.

31 (2) The HICAP notice pursuant to paragraph (8) of subdivision
32 (a) of Section 10234.93.

33 (3) The long-term care insurance shoppers guide pursuant to
34 paragraph (9) of subdivision (a) of Section 10234.93.

35 (4) The “Long-Term Care Insurance Personal Worksheet”
36 pursuant to subdivision (c) of Section 10234.95.

37 (5) The “Notice to Applicant Regarding Replacement of
38 Accident and Sickness or Long-Term Care Insurance” pursuant
39 to Section 10235.16 if replacement is not made by direct response
40 solicitation or Section 10235.18 if replacement is made by direct

1 response solicitation. Unless the solicitation was made by a direct
2 response method, the agent and applicant shall both sign at the
3 bottom of the checklist to indicate the required documents were
4 delivered and received.

5 (d) If an insurer does not complete medical underwriting and
6 resolve all reasonable questions arising from information submitted
7 on or with an application before issuing the policy or certificate,
8 then the insurer may only rescind the policy or certificate or deny
9 an otherwise valid claim, upon clear and convincing evidence of
10 fraud or material misrepresentation of the risk by the applicant.

11 The evidence shall:

- 12 (1) Pertain to the condition for which benefits are sought.
- 13 (2) Involve a chronic condition or involve dates of treatment
14 before the date of application.
- 15 (3) Be material to the acceptance for coverage.

16 (e) No long-term care policy or certificate may be field issued.

17 (f) The contestability period as defined in Section 10350.2 for
18 long-term care insurance shall be two years.

19 (g) A copy of the completed application shall be delivered to
20 the insured at the time of delivery of the policy or certificate.

21 (h) Every insurer shall maintain a record, in accordance with
22 Section 10508, of all policy or certificate rescissions, both state
23 and countrywide, and shall annually furnish this information to
24 the commissioner, which shall include the reason for rescission,
25 the length of time the policy or certificate was in force, and the
26 age and gender of the insured person, in a format prescribed by
27 the commissioner.

28 (i) The commissioner may, in his or her discretion, make public
29 the aggregate data collected under subdivision (h), upon request.

30 ~~SEC. 15. Section 10233.5 of the Insurance Code is amended~~
31 ~~to read:~~

32 ~~10233.5. (a) An outline of coverage shall be delivered to a~~
33 ~~prospective applicant for long-term care insurance at the time of~~
34 ~~initial solicitation through means which prominently direct the~~
35 ~~attention of the recipient to the document and its purpose.~~

36 ~~(b) In the case of agent solicitations, an agent shall deliver the~~
37 ~~outline of coverage prior to the presentation of an application or~~
38 ~~enrollment form.~~

1 ~~(e) In the case of direct response solicitations, the outline of~~
2 ~~coverage shall be presented in conjunction with any application~~
3 ~~or enrollment form.~~

4 ~~(d) The outline of coverage shall be a freestanding document,~~
5 ~~using no smaller than 10-point type.~~

6 ~~(e) The outline of coverage shall contain no material of an~~
7 ~~advertising nature.~~

8 ~~(f) Use of the text and sequence of the text of the outline of~~
9 ~~coverage set forth in this section is mandatory, unless otherwise~~
10 ~~specifically indicated.~~

11 ~~(g) Text that is capitalized or underscored in the outline of~~
12 ~~coverage may be emphasized by other means that provide~~
13 ~~prominence equivalent to capitalization or underscoring.~~

14 ~~(h) The outline of coverage shall be in the following form:~~

15
16 ~~“(COMPANY NAME)~~
17 ~~(ADDRESS—CITY AND STATE)~~
18 ~~(TELEPHONE NUMBER)~~
19 ~~LONG-TERM CARE INSURANCE~~
20 ~~OUTLINE OF COVERAGE~~

21 ~~(Policy Number or Group Master Policy and Certificate Number)~~

22
23 1. ~~This policy is (an individual policy of insurance) ((a group~~
24 ~~policy) which was issued in the (indicate jurisdiction in which~~
25 ~~group policy was issued)).~~

26 2. ~~PURPOSE OF OUTLINE OF COVERAGE.~~ This outline
27 of coverage provides a very brief description of the important
28 features of the policy. You should compare this outline of coverage
29 to outlines of coverage for other policies available to you. This is
30 not an insurance contract, but only a summary of coverage. Only
31 the individual or group policy contains governing contractual
32 provisions. This means that the policy or group policy sets forth
33 in detail the rights and obligations of both you and the insurance
34 company. Therefore, if you purchase this coverage, or any other
35 coverage, it is important that you ~~READ YOUR POLICY (OR~~
36 ~~CERTIFICATE) CAREFULLY!~~

37 3. ~~TERMS UNDER WHICH THE POLICY OR~~
38 ~~CERTIFICATE MAY BE RETURNED AND PREMIUM~~
39 ~~REFUNDED.~~

1 (a) ~~Provide a brief description of the right to return—“free look”~~
2 ~~provision of the policy.~~

3 (b) ~~Include a statement that the policy either does or does not~~
4 ~~contain provisions providing for a refund or partial refund of~~
5 ~~premium upon the death of an insured or surrender of the policy~~
6 ~~or certificate. If the policy contains those provisions, include a~~
7 ~~description of them.~~

8 ~~4. THIS IS NOT MEDICARE SUPPLEMENT COVERAGE.~~
9 ~~If you are eligible for Medicare, review the Medicare Supplement~~
10 ~~Buyer’s Guide available from the insurance company.~~

11 (a) ~~(For agents) Neither (insert company name) nor its agents~~
12 ~~represent Medicare, the federal government or any state~~
13 ~~government.~~

14 (b) ~~(For direct response) (insert company name) is not~~
15 ~~representing Medicare, the federal government or any state~~
16 ~~government.~~

17 ~~5. LONG-TERM CARE COVERAGE. Policies of this category~~
18 ~~are designed to provide coverage for one or more necessary or~~
19 ~~medically necessary diagnostic, preventive, therapeutic,~~
20 ~~rehabilitative, maintenance, or personal care services, provided in~~
21 ~~a setting other than an acute care unit of a hospital, such as in a~~
22 ~~nursing home, in the community, or in the home.~~

23 ~~This policy provides coverage in the form of a fixed dollar~~
24 ~~indemnity benefit for covered long-term care expenses, subject to~~
25 ~~policy (limitations) (waiting periods) and (coinsurance)~~
26 ~~requirements. (Modify this paragraph if the policy is not an~~
27 ~~indemnity policy.)~~

28 ~~6. BENEFITS PROVIDED BY THIS POLICY.~~

29 (a) ~~(Covered services, related deductible(s), waiting periods,~~
30 ~~elimination periods, and benefit maximums.)~~

31 (b) ~~(Institutional benefits, by skill level.)~~

32 (c) ~~(Noninstitutional benefits, by skill level.)~~

33 ~~(Any benefit screens must be explained in this section. If these~~
34 ~~screens differ for different benefits, explanation of the screen~~
35 ~~should accompany each benefit description. If an attending~~
36 ~~physician or other specified person must certify a certain level of~~
37 ~~functional dependency in order to be eligible for benefits, this too~~
38 ~~must be specified. If activities of daily living (ADLs) are used to~~
39 ~~measure an insured’s need for long-term care, then these qualifying~~
40 ~~criteria or screens must be explained.)~~

~~7. LIMITATIONS AND EXCLUSIONS.~~

~~(Describe:~~

~~(a) Preexisting conditions.~~

~~(b) Noneligible facilities/provider.~~

~~(c) Noneligible levels of care (e.g., unlicensed providers, care or treatments provided by a family member, etc.).~~

~~(d) Exclusions/exceptions.~~

~~(e) Limitations.)~~

~~(This section should provide a brief specific description of any policy provisions which limit, exclude, restrict, reduce, delay, or in any other manner operate to qualify payment of the benefits described in (6) above.)~~

~~THIS POLICY MAY NOT COVER ALL THE EXPENSES ASSOCIATED WITH YOUR LONG-TERM CARE NEEDS.~~

~~8. RELATIONSHIP OF COST OF CARE AND BENEFITS.~~

~~Because the costs of long-term care services will likely increase over time, you should consider whether and how the benefits of this plan may be adjusted. (As applicable, indicate the following:~~

~~(a) That the benefit level will NOT increase over time.~~

~~(b) Any automatic benefit adjustment provisions.~~

~~(c) Whether the insured will be guaranteed the option to buy additional benefits and the basis upon which benefits will be increased over time if not by a specified amount or percentage.~~

~~(d) If there is a guarantee, include whether additional underwriting or health screening will be required, the frequency and amounts of the upgrade options, and any significant restrictions or limitations.~~

~~(e) And finally, describe whether there will be any additional premium charge imposed, and how that is to be calculated.)~~

~~9. TERMS UNDER WHICH THE POLICY (OR CERTIFICATE) MAY BE CONTINUED IN FORCE OR DISCONTINUED.~~

~~(a) Describe the policy renewability provisions.~~

~~(b) For group coverage, specifically describe continuation/conversion provisions applicable to the certificate and group policy.~~

~~(c) Describe waiver of premium provisions or state that there are no waiver of premium provisions.~~

1 (d) ~~State whether or not the company has a right to change~~
2 ~~premium, and if that right exists, describe clearly and concisely~~
3 ~~each circumstance under which the premium may change.~~

4 ~~10. ALL MENTAL ILLNESSES COVERED.~~

5 ~~(State that the policy provides coverage for insureds for all~~
6 ~~mental illnesses. Specifically describe each benefit screen or other~~
7 ~~policy provision that provides preconditions to the availability of~~
8 ~~policy benefits for that insured.)~~

9 ~~11. PREMIUM.~~

10 ~~(a) State the total annual premium for the policy.~~

11 ~~(b) If the premium varies with an applicant’s choice among~~
12 ~~benefit options, indicate the portion of annual premium which~~
13 ~~corresponds to each benefit option.~~

14 ~~12. ADDITIONAL FEATURES.~~

15 ~~(a) Indicate if medical underwriting is used.~~

16 ~~(b) Describe other important features.~~

17 ~~13. INFORMATION AND COUNSELING. The California~~
18 ~~Department of Insurance has prepared a Consumer Guide to~~
19 ~~Long-Term Care Insurance. This guide can be obtained by calling~~
20 ~~the Department of Insurance toll-free telephone number or by~~
21 ~~accessing the department’s Internet Web site at~~
22 ~~www.insurance.ca.gov. The department’s number is~~
23 ~~1-800-927-HELP. Additionally, the Health Insurance Counseling~~
24 ~~and Advocacy Program (HICAP) administered by the California~~
25 ~~Department of Aging, provides long-term care insurance counseling~~
26 ~~to California senior citizens. Call the HICAP toll-free telephone~~
27 ~~number 1-800-434-0222 for a referral to your local HICAP office.”~~

28 ~~SEC. 16.~~

29 ~~SEC. 23.~~ Section 10233.9 of the Insurance Code is repealed.

30 ~~SEC. 17.~~

31 ~~SEC. 24.~~ Section 10235.35 of the Insurance Code is amended
32 to read:

33 10235.35. (a) Notwithstanding any other provision of law, the
34 commissioner may require the administration by an insurer of the
35 contingent benefit upon lapse, as described in Section 28 (A), (D)
36 (3), (E), (F), (G), and (J) of the Long-Term Care Insurance Model
37 Regulation promulgated by the National Association of Insurance
38 Commissioners, as adopted in September 2014, as a condition of
39 approval or acknowledgment of a rate adjustment for a block of

1 business for which the contingent benefit upon lapse is not
2 otherwise available.

3 (b) The insurer shall notify policyholders and certificate holders
4 of the contingent benefit upon lapse when required by the
5 commissioner in conjunction with the implementation of a rate
6 adjustment. The commissioner may require an insurer who files
7 for such a rate adjustment to allow policyholders and certificate
8 holders to reduce coverage pursuant to Section 10235.50 to avoid
9 an increase in the policy's premium amount.

10 (c) The commissioner may also approve any other alternative
11 mechanism filed by the insurer in lieu of the contingent benefit
12 upon lapse.

13 ~~SEC. 18.~~

14 *SEC. 25.* Section 12418.4 of the Insurance Code is amended
15 to read:

16 12418.4. (a) Sections 1667, 1668, 1669, 1670, 1729, 1729.2,
17 1738, 1738.5, 1743, and Article 6 (commencing with Section
18 12404), shall apply to all applicants or holders of a certificate of
19 registration issued pursuant to this article.

20 (b) The department may revoke, suspend, restrict, or decline to
21 issue a certificate of registration if it determines that the title
22 marketing representative or applicant has violated provisions of
23 Article 6 (commencing with Section 12404) pursuant to the due
24 process and hearing requirements set forth in subdivision (c).

25 (c) Except as provided in Section 1669, a certificate of
26 registration shall not be denied, restricted, suspended, or revoked
27 without a hearing conducted in accordance with Chapter 5
28 (commencing with Section 11500) of Part 1 of Division 3 of Title
29 2 of the Government Code.

30 (d) In addition to, or in lieu of, any other penalty that may be
31 imposed under this article against a title marketing representative,
32 the commissioner may bring an administrative action against a
33 title marketing representative for any violation of the provisions
34 of Article 6 (commencing with Section 12404). If a title marketing
35 representative charged with a violation of Article 6 (commencing
36 with Section 12404) is determined by the commissioner to have
37 committed the violation, the commissioner may require the
38 surrender of, temporarily suspend or revoke either permanently or
39 temporarily the title marketing representative's certificate of
40 registration, and, in addition, may impose a monetary penalty. Any

1 payment of a monetary penalty pursuant to a settlement or final
2 adjudication shall be made from the title marketing representative's
3 personal funds and not by his or her employer either directly or
4 through the title marketing representative. This article shall not
5 preclude an action against a company that had actual knowledge
6 of the violation by the title marketing representative. A title
7 marketing representative who is issued a certificate of registration
8 under this article may not engage in any activity that is otherwise
9 prohibited through a separate entity controlled by the title
10 marketing representative or by the company or entity that employs
11 him or her.

12 (e) A title marketing representative who has his or her certificate
13 of registration revoked by the department shall not be permitted
14 to reapply for another certificate of registration with the department
15 for five years from the date of revocation.

16 ~~SEC. 19. Section 12820 of the Insurance Code is amended to~~
17 ~~read:~~

18 ~~12820. (a) Prior to offering a vehicle service contract form to~~
19 ~~a purchaser or providing a vehicle service contract form to a seller,~~
20 ~~an obligor shall file with the commissioner a specimen of that~~
21 ~~vehicle service contract form.~~

22 ~~(b) A vehicle service contract form may include any or all of~~
23 ~~the benefits described in subdivision (c) of Section 12800 and shall~~
24 ~~comply with all of the following requirements:~~

25 ~~(1) (A) If an obligor has complied with Section 12830, the~~
26 ~~vehicle service contract shall include a disclosure in substantially~~
27 ~~the following form: "Performance to you under this contract is~~
28 ~~guaranteed by a California approved insurance company. You may~~
29 ~~file a claim with this insurance company if any promise made in~~
30 ~~the contract has been denied or has not been honored within 60~~
31 ~~days after your request. The name and address of the insurance~~
32 ~~company is: (insert name and address). If you are not satisfied with~~
33 ~~the insurance company's response, you may contact the California~~
34 ~~Department of Insurance at 1-800-927-4357 or access the~~
35 ~~department's Internet Web site (www.insurance.ca.gov)."~~

36 ~~(B) If an obligor has complied with Section 12836, the vehicle~~
37 ~~service contract shall include a disclosure in substantially the~~
38 ~~following form: "If any promise made in the contract has been~~
39 ~~denied or has not been honored within 60 days after your request,~~
40 ~~you may contact the California Department of Insurance at~~

1 ~~1-800-927-4357 or access the department's Internet Web site~~
2 ~~(www.insurance.ca.gov)."~~

3 ~~(C) The requirement that a vehicle service contract form include~~
4 ~~the department's Internet Web site shall not apply to a form for~~
5 ~~which the department has issued a "no objection letter" as of~~
6 ~~December 31, 2016.~~

7 ~~(2) All vehicle service contract language that excludes coverage,~~
8 ~~or imposes duties upon the purchaser, shall be conspicuously~~
9 ~~printed in boldface type no smaller than the surrounding type.~~

10 ~~(3) The vehicle service contract shall do each of the following:~~

11 ~~(A) State the obligor's full corporate name or a fictitious name~~
12 ~~approved by the commissioner, the obligor's mailing address, the~~
13 ~~obligor's telephone number, and the obligor's vehicle service~~
14 ~~contract provider license number.~~

15 ~~(B) State the name of the purchaser and the name of the seller.~~

16 ~~(C) Conspicuously state the vehicle service contract's purchase~~
17 ~~price.~~

18 ~~(D) Comply with Sections 1794.4 and 1794.41 of the Civil~~
19 ~~Code.~~

20 ~~(E) Name the administrator, if any, and provide the~~
21 ~~administrator's license number.~~

22 ~~(4) If the vehicle service contract excludes coverage for~~
23 ~~preexisting conditions, the contract must disclose this exclusion~~
24 ~~in 12-point type.~~

25 ~~(e) The following benefits constitute insurance, whether offered~~
26 ~~as part of a vehicle service contract or in a separate agreement:~~

27 ~~(1) Indemnification for a loss caused by misplacement, theft,~~
28 ~~collision, fire, or other peril typically covered in the comprehensive~~
29 ~~coverage section of an automobile insurance policy, a homeowner's~~
30 ~~policy, or a marine or inland marine policy.~~

31 ~~(2) Locksmith services, unless offered as part of an emergency~~
32 ~~road service benefit.~~

33 *SEC. 26. Section 12820 of the Insurance Code is amended to*
34 *read:*

35 12820. (a) Prior to offering a vehicle service contract form to
36 a purchaser or providing a vehicle service contract form to a seller,
37 an obligor shall file with the commissioner a specimen of that
38 vehicle service contract form.

1 (b) A vehicle service contract form may include any or all of
2 the benefits described in subdivision (c) of Section 12800 and shall
3 comply with all of the following requirements:

4 (1) (A) If an obligor has complied with Section 12830, the
5 vehicle service contract shall include a disclosure in substantially
6 the following form: “Performance to you under this contract is
7 guaranteed by a California approved insurance company. You may
8 file a claim with this insurance company if any promise made in
9 the contract has been denied or has not been honored within 60
10 days after your request. The name and address of the insurance
11 company is: (insert name and address). If you are not satisfied with
12 the insurance company’s response, you may contact the California
13 Department of Insurance at 1-800-927-4357.”

14 (B) If an obligor has complied with Section 12836, the vehicle
15 service contract shall include a disclosure in substantially the
16 following form: “If any promise made in the contract has been
17 denied or has not been honored within 60 days after your request,
18 you may contact the California Department of Insurance at
19 1-800-927-4357.”

20 (2) All vehicle service contract language that excludes coverage,
21 or imposes duties upon the purchaser, shall be conspicuously
22 printed in boldface type no smaller than the surrounding type.

23 (3) The vehicle service contract shall do each of the following:

24 (A) State the obligor’s full corporate name or a fictitious name
25 approved by the commissioner, the obligor’s mailing address, the
26 obligor’s telephone number, and the obligor’s vehicle service
27 contract provider license number.

28 (B) State the name of the purchaser and the name of the seller.

29 (C) Conspicuously state the vehicle service contract’s purchase
30 price.

31 (D) Comply with Sections 1794.4 and 1794.41 of the Civil
32 Code.

33 (E) Name the administrator, if any, and provide the
34 administrator’s license number.

35 (4) If the vehicle service contract excludes coverage for
36 preexisting conditions, the contract must disclose this exclusion
37 in 12-point type.

38 (c) The following benefits constitute insurance, whether offered
39 as part of a vehicle service contract or in a separate agreement:

1 (1) Indemnification for a loss caused by misplacement, theft,
2 collision, fire, or other peril typically covered in the comprehensive
3 coverage section of an automobile insurance policy, a homeowner's
4 policy, or a marine or inland marine policy.

5 (2) Locksmith services, unless offered as part of an emergency
6 road service benefit.

7 (d) *This section shall remain in effect only until January 1, 2017,*
8 *and as of that date is repealed, unless a later enacted statute, that*
9 *is enacted before January 1, 2017, deletes or extends that date.*

10 SEC. 27. *Section 12820 is added to the Insurance Code, to*
11 *read:*

12 12820. (a) *Prior to offering a vehicle service contract form*
13 *to a purchaser or providing a vehicle service contract form to a*
14 *seller, an obligor shall file with the commissioner a specimen of*
15 *that vehicle service contract form.*

16 (b) *A vehicle service contract form may include any or all of*
17 *the benefits described in subdivision (c) of Section 12800 and shall*
18 *comply with all of the following requirements:*

19 (1) (A) *If an obligor has complied with Section 12830, the*
20 *vehicle service contract shall include a disclosure in substantially*
21 *the following form: "Performance to you under this contract is*
22 *guaranteed by a California approved insurance company. You*
23 *may file a claim with this insurance company if any promise made*
24 *in the contract has been denied or has not been honored within*
25 *60 days after your request. The name and address of the insurance*
26 *company is: (insert name and address). If you are not satisfied*
27 *with the insurance company's response, you may contact the*
28 *California Department of Insurance at 1-800-927-4357 or access*
29 *the department's Internet Web site (www.insurance.ca.gov)."*

30 (B) *If an obligor has complied with Section 12836, the vehicle*
31 *service contract shall include a disclosure in substantially the*
32 *following form: "If any promise made in the contract has been*
33 *denied or has not been honored within 60 days after your request,*
34 *you may contact the California Department of Insurance at*
35 *1-800-927-4357 or access the department's Internet Web site*
36 *(www.insurance.ca.gov)."*

37 (C) *The requirement that a vehicle service contract form include*
38 *the department's Internet Web site shall not apply to a form for*
39 *which the department has issued a "no objection letter" as of*
40 *December 31, 2016.*

1 (2) All vehicle service contract language that excludes coverage,
2 or imposes duties upon the purchaser, shall be conspicuously
3 printed in boldface type no smaller than the surrounding type.

4 (3) The vehicle service contract shall do each of the following:

5 (A) State the obligor’s full corporate name or a fictitious name
6 approved by the commissioner, the obligor’s mailing address, the
7 obligor’s telephone number, and the obligor’s vehicle service
8 contract provider license number.

9 (B) State the name of the purchaser and the name of the seller.

10 (C) Conspicuously state the vehicle service contract’s purchase
11 price.

12 (D) Comply with Sections 1794.4 and 1794.41 of the Civil Code.

13 (E) Name the administrator, if any, and provide the
14 administrator’s license number.

15 (4) If the vehicle service contract excludes coverage for
16 preexisting conditions, the contract must disclose this exclusion
17 in 12-point type.

18 (c) The following benefits constitute insurance, whether offered
19 as part of a vehicle service contract or in a separate agreement:

20 (1) Indemnification for a loss caused by misplacement, theft,
21 collision, fire, or other peril typically covered in the comprehensive
22 coverage section of an automobile insurance policy, a
23 homeowner’s policy, or a marine or inland marine policy.

24 (2) Locksmith services, unless offered as part of an emergency
25 road service benefit.

26 (d) This section shall become operative on January 1, 2017.

27 ~~SEC. 20.~~

28 SEC. 28. Section 12921 of the Insurance Code is amended to
29 read:

30 12921. (a) The commissioner shall perform all duties imposed
31 upon him or her by the provisions of this code and other laws
32 regulating the business of insurance in this state, and shall enforce
33 the execution of those provisions and laws.

34 (b) In an administrative action to enforce the provisions of this
35 code and other laws regulating the business of insurance in this
36 state, any settlement is subject to all of the following:

37 (1) The commissioner may delegate the power to negotiate the
38 terms and conditions of a ~~settlement~~. *settlement to designated*
39 *deputy commissioners*. The commissioner may delegate the power

1 to approve a settlement, unless the settlement involves any of the
2 following:

3 (A) An insurer.

4 (B) A managing general agent or production agent that manages
5 the business of an insurer.

6 (C) A title company.

7 (D) A home protection company.

8 (E) An insurance adjuster whose claims practices are at issue.

9 (F) An insurance agent or broker, or an applicant for an
10 insurance agent or broker license, who has allegedly engaged in
11 theft, fraud, or the misappropriation of premium or other funds in
12 an amount that exceeds fifty thousand dollars (\$50,000).

13 (2) Unless specifically provided for in a provision of this code,
14 the commissioner may not agree to any of the following:

15 (A) That the respondent contribute, deposit, or transfer any
16 moneys or other resources to a nonprofit entity.

17 (B) That a respondent contribute, deposit, or transfer any fine,
18 penalty, assessment, cost, or fee except to the commissioner for
19 deposit in the appropriate state fund pursuant to Section 12975.7.

20 (C) That the commissioner may or shall direct the transfer,
21 distribution, or payment to another person or entity of any fine,
22 penalty, assessment, cost, or fee.

23 (D) The use of the commissioner's name, likeness, or voice in
24 any printed material or audio or visual medium, either for general
25 distribution or for distribution to specific recipients.

26 (3) The commissioner may only agree to payment to those
27 persons or entities to whom payment may be due because of the
28 respondent's violation of a provision of this code or other law
29 regulating the business of insurance in this state.

30 (4) A settlement may only include the sanctions provided by
31 this code or other laws regulating the business of insurance in this
32 state, except that the settlement may include attorney's fees, costs
33 of the department in bringing the enforcement action, and future
34 costs of the department to ensure compliance with the settlement
35 agreement.

36 (c) Notwithstanding any other provision of law, the
37 commissioner may accept documents submitted for filing or
38 approval, process transactions, and maintain records in electronic
39 form or as paper documents, and may adopt regulations to further
40 this subdivision.

1 ~~SEC. 21.~~

2 *SEC. 29.* Section 1299.04 of the Penal Code is amended to
3 read:

4 1299.04. (a) A bail fugitive recovery person, a bail agent, bail
5 permittee, or bail solicitor who contracts his or her services to
6 another bail agent or surety as a bail fugitive recovery person for
7 the purposes specified in subdivision (d) of Section 1299.01, and
8 any bail agent, bail permittee, or bail solicitor who obtains licensing
9 after January 1, 2000, and who engages in the arrest of a defendant
10 pursuant to Section 1301 shall comply with the following
11 requirements:

12 (1) The person shall be at least 18 years of age.

13 (2) The person shall have completed a 40-hour power of arrest
14 course certified by the Commission on Peace Officer Standards
15 and Training pursuant to Section 832. Completion of the course
16 shall be for educational purposes only and not intended to confer
17 the power of arrest of a peace officer or public officer, or agent of
18 any federal, state, or local government, unless the person is so
19 employed by a governmental agency.

20 (3) The person shall have completed a minimum of 20 hours of
21 classroom prelicensing education certified pursuant to Section
22 1810.7 of the Insurance Code. For those persons licensed by the
23 department as a bail licensee prior to January 1, 1994, there is no
24 prelicensing education requirement. For those persons licensed by
25 the department as a bail licensee between January 1, 1994, and
26 December 31, 2012, a minimum of 12 hours of classroom
27 prelicensing education is required.

28 (4) The person shall not have been convicted of a felony, unless
29 the person is licensed by the Department of Insurance pursuant to
30 Section 1800 of the Insurance Code.

31 (b) Upon completion of any course or training program required
32 by this section, an individual authorized by Section 1299.02 to
33 apprehend a bail fugitive shall carry certificates of completion
34 with him or her at all times in the course of performing his or her
35 duties under this article.

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