

AMENDED IN ASSEMBLY MARCH 30, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2884

Introduced by Committee on Insurance (Assembly Members Daly (Chair), Bigelow, Calderon, Chu, Cooley, Cooper, Dababneh, Frazier, Gatto, Gonzalez, and Rodriguez)

February 25, 2016

An act to amend ~~Section 1726~~ of Sections 660, 789, 1669, 1681, 1726, 1749.6, 1807.5, 10168.6, 10234.6, 10234.95, 11520.5, and 11691 of, and to repeal and add Section 1682 of, the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2884, as amended, Committee on Insurance. Insurance: licensees: Internet: disclosures.

(1) Existing law defines "policy," to mean, among others, an automobile liability, automobile physical damage, or automobile collision policy insuring a single individual or individuals residing in the same household, as the named insured, and under which the insured vehicles designated under are of specified types including a motor vehicle, as specified, and any other 4-wheel motor vehicle with a load capacity of 1,500 pounds or less, for the purposes of various requirements for a notice of cancellation of a policy. Existing law further provides that the requirements for a notice of cancellation of a policy do not apply to any policy issued under an automobile assigned risk plan, any policy insuring more than 4 vehicles, and to any policy covering, among other things, garage, automobile sales agency, or public parking place operation hazards.

This bill would, among other things, remove the exemption for any policy insuring more than 4 automobiles.

(2) Existing law prohibits a person from soliciting, negotiating, or effecting contracts of insurance, or acting in the capacity of various types of insurance agents, unless the person holds a valid license from the Insurance Commissioner authorizing the person to act in that capacity. Existing law authorizes the commissioner to deny an application for a license for various reasons including if the applicant committed a felony or a misdemeanor as shown by a plea of guilty or nolo contendere. Existing law also requires an applicant to pass the qualifying examination for the license prior to receiving a permanent license and allows the applicant to retake the qualifying examination subject to reasonable time limits limiting when a person who has failed the examination may retake.

This bill would add that the commissioner may deny an application for a license if the applicant has been convicted of a felony or misdemeanor, as specified. The bill would also prohibit a person who has failed any license qualification examination 10 times within the previous 12-month period from enrolling in any further license qualification examinations for a period of 12 months.

Existing

(3) Existing law requires a person who is licensed in this state as an insurance agent or broker, advertises insurance on the Internet, and transacts insurance in this state, to identify certain information on the Internet, regardless of whether the insurance agent or broker maintains his or her Internet presence or if the presence is maintained on his or her behalf. The required information includes, but is not limited to, his or her name as it appears on his or her license, and any fictitious name approved by the ~~Insurance Commissioner~~ commissioner.

This bill would instead require that the person provide his or her name as filed with the commissioner that has not been disapproved pursuant to the provisions regarding the use of fictitious names.

(4) Existing law automatically terminates the license of a person failing to meet various requirements and who has not been granted an extension of time within which to comply by the commissioner until the person demonstrates that he or she has complied with all of the requirements, as specified.

This bill would add the failure by an insurance adjuster and a public insurance adjuster to complete continuing education requirements to

the list of requirements for which the failure to complete will result in an automatic termination of the license.

(5) Existing law prohibits an insurer from executing an undertaking of bail except by and through a person holding a bail license, as provided. Existing law also prohibits the commissioner from suspending or revoking any license, issued as specified, without first granting a hearing, as specified.

This bill would prohibit the commissioner from denying a license to an applicant without first granting a hearing, as specified.

(6) Existing law provides that for the purpose of determining certain benefits, that in the case of annuity contracts under which an election may be made to have annuity payments commence at optional maturity dates, the maturity date shall be deemed to be the latest date for which election is permitted by the contract.

This bill would add that in the case of annuity contracts under which the fixed maturity date is later than the later of the anniversary of the contract next following the annuitant's 70th birthday or the 10th anniversary of the contract, the maturity date shall be deemed to be the later of the anniversary of the contract next following the annuitant's 70th birthday or the 10th anniversary of the contract.

(7) Existing law requires the commissioner to annually prepare a consumer rate guide for long-term care insurance and to include specified information, including a history of the rates of all policies issued in California for the current year and for the 4 preceding years.

This bill would require the history of the rates of all policies issued in California to be listed for the 9 preceding years.

(8) Existing law requires an insurer, in order to be admitted in this state to transact specified workers' compensation transactions, among other things, to deposit cash instruments or approved interest-bearing securities or approved stocks readily convertible into cash, investment certificates, or share accounts issued by a savings and loan association doing business in this state and insured by the Federal Deposit Insurance Corporation, certificates of deposit, or savings deposits in a bank licensed to do business in this state that is either domiciled in and with its principal place of business in this state or that is a national banking association with a trust office located in this state.

This bill would instead include a bank licensed to do business in this state, or a trust company, licensed to do business and located in this state that is either domiciled in and with its principal place of business

in this state or that is a national banking association with a trust office located in this state.

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

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

- 1 SECTION 1. Section 660 of the Insurance Code is amended to
 2 read:
 3 660. As used in this chapter:
 4 (a) “Policy” means an automobile liability, automobile physical
 5 damage, or automobile collision policy, or any combination thereof,
 6 delivered or issued for delivery in this state, insuring a single
 7 individual or individuals residing in the same household, as named
 8 insured, and under which the insured vehicles therein designated
 9 are of the following types only:
 10 (1) A motor vehicle of the private passenger or station wagon
 11 type that is not used as a public or livery conveyance for
 12 passengers, nor rented to others; or
 13 (2) Any other four-wheel motor vehicle with a load capacity of
 14 1,500 pounds or less; provided, however, that this chapter shall
 15 not apply ~~(i) to any~~ to either of the following:
 16 (A) Any policy issued under an automobile assigned risk plan,
 17 ~~or (ii) to any policy insuring more than four automobiles, or (iii)~~
 18 ~~to any plan.~~
 19 (B) Any policy covering garage, automobile sales agency, repair
 20 shop, service station, or public parking place operation ~~hazards;~~
 21 ~~or hazards.~~
 22 (3) A motorcycle.
 23 (b) “Automobile liability coverage” includes only coverage of
 24 bodily injury and property damage liability, medical payments,
 25 and uninsured motorists coverage.
 26 (c) “Automobile physical damage coverage” includes all
 27 coverage of loss or damage to an automobile insured under the
 28 policy except loss or damage resulting from collision or upset.
 29 (d) “Automobile collision coverage” includes all coverage of
 30 loss or damage to an automobile insured under the policy resulting
 31 from collision or upset.
 32 (e) “Renewal” or “to renew” means to continue coverage with
 33 either the insurer which issued the policy or an affiliated insurer,

1 as defined in Section 1215, for an additional policy period upon
2 expiration of the current policy period of a policy, provided that
3 if coverage is continued with an affiliated insurer, it shall be the
4 same or broader coverage as provided by the present insurer, and
5 the insured shall be notified in writing at least 20 days prior to
6 expiration of the current policy period of all of the following: ~~(1)~~

7 ~~that following:~~

8 (1) ~~That the insurer has determined that it will not offer renewal~~
9 ~~of the policy with the present insurer;~~ (2) ~~That insurer.~~

10 (2) ~~That it is offering replacement in an affiliated insurer, and~~
11 ~~(3) That insurer.~~

12 (3) ~~That the insured may obtain in writing the reasons for the~~
13 ~~change in insurers if he or she requests in writing not later than~~
14 ~~one month following the expiration of the policy period the reason~~
15 ~~or reasons for the change in insurers. Any policy with a policy~~
16 ~~period or term of six months or less, whether or not made~~
17 ~~continuous for successive terms upon the payment of additional~~
18 ~~premiums, shall for the purpose of this chapter be considered as~~
19 ~~if written for a policy period or term of six months. Any policy~~
20 ~~written for a term longer than one year, or any policy with no fixed~~
21 ~~expiration date, shall for the purpose of this chapter, be considered~~
22 ~~as if written for successive policy periods or terms of one year.~~

23 (f) “Nonpayment of premium” means failure of the named
24 insured to discharge when due any of his obligations in connection
25 with the payment of premiums on a policy, or any installment of
26 such premium, whether the premium is payable directly to the
27 insurer or its agent or indirectly under any premium finance plan
28 or extension of credit.

29 (g) “Cancellation” means termination of coverage by an insurer
30 (other than termination at the request of the insured) during a policy
31 period.

32 (h) “Nonrenewal” means a notice by the insurer to the named
33 insured that the insurer is unwilling to renew a policy.

34 (i) “Expiration” means termination of coverage by reason of
35 the policy having reached the end of the term for which it was
36 issued or the end of the period for which a premium has been paid.

37 *SEC. 2. Section 789 of the Insurance Code is amended to read:*

38 789. (a) The commissioner shall have the administrative
39 authority to assess penalties against insurers, brokers, agents, and

1 other entities engaged in the transaction of insurance or any other
 2 person or entity for violations of this article.

3 (b) Upon a showing of a violation of this article in any civil
 4 action, a court may also assess the penalties prescribed in this
 5 ~~chapter.~~ *article.*

6 (c) Whenever the commissioner has reasonable cause to believe
 7 or determines after a public hearing that any insurer, agent, broker,
 8 or other person or entity engaged in the transaction of insurance,
 9 has violated this article the commissioner shall make and serve
 10 upon the insurer, broker, agent, or other person or entity a notice
 11 of hearing. The notice shall state the commissioner’s intent to
 12 assess the administrative penalties, the time and place of the
 13 hearing, and the conduct, condition or ground upon which the
 14 commissioner is holding the hearing, and assessing the penalties.
 15 The hearing shall occur within 30 days after the notice is served.
 16 Within 30 days after the hearing the commissioner shall issue an
 17 order specifying the amount of the penalties to be paid. The
 18 penalties resulting from the hearing shall be paid to the Insurance
 19 Fund.

20 (d) The powers vested in the commissioner by this section shall
 21 be in addition to any and all powers and remedies vested in the
 22 commissioner by law.

23 (e) Actions for injunctive relief, penalties specified in Section
 24 789.3, damages, restitution, and all other remedies in law, may be
 25 brought in superior court by the Attorney General, district attorney,
 26 or city attorney on behalf of the people of California. The court
 27 shall award reasonable attorney’s fees and court costs to the
 28 prevailing plaintiff who establishes a violation of this article.

29 *SEC. 3. Section 1669 of the Insurance Code is amended to*
 30 *read:*

31 1669. The commissioner may, without hearing, deny an
 32 application if the applicant ~~has~~ *has done one or more of the*
 33 *following:*

34 ~~(a) Committed a felony as shown by a plea of guilty or nolo~~
 35 ~~contendere, or by a final judgment of conviction thereof;~~

36 ~~(b) Committed a misdemeanor denounced by this code or by~~
 37 ~~other laws regulating insurance as shown by a plea of guilty or~~
 38 ~~nolo contendere, or by a final judgment of conviction thereof;~~

39 (a) (1) *Been convicted of a felony.*

1 (2) *Been convicted of a misdemeanor denounced by this code*
2 *or by other laws regulating insurance.*

3 (3) *A judgment, plea, or verdict of guilty or a conviction*
4 *following a plea of nolo contendere is deemed to be a conviction*
5 *within the meaning of this subdivision.*

6 (e)

7 (b) *Had a previous application for a professional, occupational,*
8 *or vocational license denied for cause by any licensing authority,*
9 *within five years of the date of the filing of the application to be*
10 *acted upon, on grounds that should preclude the granting of a*
11 *license by the commissioner under this chapter; or chapter.*

12 (d)

13 (c) *Had a previously issued professional, occupational, or*
14 *vocational license suspended or revoked for cause by any licensing*
15 *authority, within five years of the date of the filing of the*
16 *application to be acted upon, on grounds that should preclude the*
17 *granting of a license by the commissioner under this chapter.*

18 *In the event the commissioner issues an order based on a plea*
19 *that does not at any time result in a judgment of conviction, the*
20 *commissioner shall vacate the order upon petition by the applicant.*

21 *SEC. 4. Section 1681 of the Insurance Code is amended to*
22 *read:*

23 1681. *If an applicant fails the qualifying examination, he or*
24 *she may, subject to the provisions of this article and such rules*
25 *and regulations as may be promulgated hereunder, retake such*
26 *qualifying examination within the period prescribed in Section*
27 *1670 during which he must qualify for the license sought. Section*
28 *1682, retake a qualifying examination.*

29 *SEC. 5. Section 1682 of the Insurance Code is repealed.*

30 ~~1682. The commissioner may, in accordance with the procedure~~
31 ~~set forth in Chapter 4 of Part I of Division 3 of Title 2 of the~~
32 ~~Government Code, promulgate rules setting reasonable time limits~~
33 ~~within which a person who has twice failed an examination or~~
34 ~~failed to fulfill examination requirements may not take further~~
35 ~~examinations.~~

36 *SEC. 6. Section 1682 is added to the Insurance Code, to read:*

37 1682. (a) *A person who has failed any license qualification*
38 *examination 10 times within the previous 12-month period shall*
39 *not be permitted to enroll in any further license qualification*

1 examinations for a period of 12 months, beginning from the date
2 of the 10th license qualification examination failure.

3 (b) For the purpose of this section, “license qualification
4 examination” includes examinations for all types of licenses issued
5 by the commissioner pursuant to this chapter, Chapter 7
6 (commencing with Section 1800) and Chapter 8 (commencing with
7 Section 1831), and Chapter 1 (commencing with Section 14000)
8 and Chapter 2 (commencing with Section 15000) of Division 5.

9 **SECTION 1.**

10 SEC. 7. Section 1726 of the Insurance Code is amended to
11 read:

12 1726. (a) A person who is licensed in this state as an insurance
13 agent or broker, advertises insurance on the Internet, and transacts
14 insurance in this state, shall identify all of the following
15 information on the Internet, regardless of whether the insurance
16 agent or broker maintains his or her Internet presence or if the
17 presence is maintained on his or her behalf:

18 (1) His or her name as filed with the commissioner that has not
19 been disapproved pursuant to Section 1724.5.

20 (2) The state of his or her domicile and principal place of
21 business.

22 (3) His or her license number.

23 (b) A person shall be deemed to be transacting insurance in this
24 state when the person advertises on the Internet, regardless of
25 whether the insurance agent or broker maintains his or her Internet
26 presence or if it is maintained on his or her behalf, and does any
27 of the following:

28 (1) Provides an insurance premium quote to a California
29 resident.

30 (2) Accepts an application for coverage from a California
31 resident.

32 (3) Communicates with a California resident regarding one or
33 more terms of an agreement to provide insurance or an insurance
34 policy.

35 SEC. 8. Section 1749.6 of the Insurance Code is amended to
36 read:

37 1749.6. Any person failing to meet the requirements imposed
38 by Section ~~1749.3~~ or 1749.3, 1749.31, 14090.1, or 15059.1 and
39 who has not been granted an extension of time within which to
40 comply by the commissioner shall have his or her license

1 automatically terminated until the time that the person demonstrates
2 to the satisfaction of the commissioner that he or she has complied
3 with all of the requirements of this article and all other laws
4 applicable thereto.—Where *If* a person cannot perform the
5 requirements of this article due to a disability or inactivity due to
6 special circumstances, the commissioner shall provide a procedure
7 for the person to place his or her license on inactive status until
8 the time that the person demonstrates to the satisfaction of the
9 commissioner that he or she has complied with or made up all of
10 the requirements of this article for the period of disability or
11 inactivity.

12 *SEC. 9. Section 1807.5 of the Insurance Code is amended to*
13 *read:*

14 1807.5. Except as provided in Sections 1669 and 1738, the
15 commissioner shall not—~~suspend~~ *deny, suspend,* or revoke any
16 license, issued under this article, without first granting a hearing,
17 upon reasonable notice to the—~~applicant,~~ *applicant or licensee,*
18 except that he may temporarily suspend a license for a period not
19 exceeding 15 days pending the hearing. Where a hearing is held
20 under this section the proceedings shall be conducted in accordance
21 with Chapter 5 (commencing with Section 11500) of Part 1 of
22 Division 3 of Title 2 of the Government Code, and the
23 commissioner shall have all the powers granted pursuant to that
24 chapter.

25 *SEC. 10. Section 10168.6 of the Insurance Code is amended*
26 *to read:*

27 10168.6. For the purpose of determining the benefits calculated
28 under Sections 10168.4 and 10168.5, ~~in~~ *the following apply:*

29 (a) *In the case of annuity contracts under which—~~an~~ the fixed*
30 *maturity date is later than the later of the anniversary of the*
31 *contract next following the annuitant's 70th birthday or the 10th*
32 *anniversary of the contract, the maturity date shall be deemed to*
33 *be the later of the anniversary of the contract next following the*
34 *annuitant's 70th birthday or the 10th anniversary of the contract.*

35 (b) *In the case of annuity contracts under which an election*
36 *may be made to have annuity payments commence at optional*
37 *maturity dates, the maturity date shall be deemed to be the latest*
38 *date for which election shall be permitted by the contract, but shall*
39 *not be deemed to be later than the anniversary of the contract next*

1 following the annuitant's seventieth birthday or the tenth
2 anniversary of the contract, whichever is later.

3 *SEC. 11. Section 10234.6 of the Insurance Code is amended*
4 *to read:*

5 10234.6. (a) The commissioner shall, by June 1 of each year,
6 jointly design the format and content of a consumer rate guide for
7 long-term care insurance with a working group that includes
8 representatives of the Health Insurance Counseling and Advocacy
9 Program, the insurance industry, and insurance agents. The
10 commissioner shall annually prepare the consumer rate guide for
11 long-term care insurance that shall include, but not be limited to,
12 the following information:

13 (1) A comparison of the different types of long-term care
14 insurance and coverages available to California consumers and a
15 specimen outline of coverage for each product currently marketed
16 by each insurer listed in the rate guide.

17 (2) A premium history of each insurer that writes long-term
18 care policies for all the types of long-term care insurance and
19 coverages issued by the insurer in California.

20 (b) The consumer rate guide to be prepared by the commissioner
21 shall consist of two parts: a history of the rates for all policies
22 issued in California for the current year and for ~~four~~ *nine* preceding
23 years, and a comparison of the policies, benefits, and sample
24 premiums for all policies currently being issued for delivery in
25 California.

26 (1) For the rate history portion of the rate guide required by this
27 section, the department shall collect, and each insurer shall provide
28 to the department, all of the following information for each
29 long-term care policy, including all policies, whether issued by
30 the insurer or purchased or acquired from another insurer, issued
31 in California for the current year and for ~~four~~ *nine* preceding years:

32 (A) Company name.

33 (B) Policy type.

34 (C) Policy form identification.

35 (D) Dates sold.

36 (E) Date acquired (if applicable).

37 (F) Premium rate increases requested.

38 (G) Premium rate increases approved.

39 (H) Dates of premium rate increase approvals.

40 (I) Any other information requested by the department.

1 (2) For the policy comparison portion of the rate guide required
2 by this section, the department shall collect, and each insurer shall
3 provide to the department, the information needed to complete the
4 following form, along with any other information requested by the
5 department, for each long-term care policy currently issued for
6 delivery in California, including all policies, whether issued by
7 the insurer or purchased or acquired from another insurer:

INSURANCE COMPANY NAME	Policy Form Number		
[List policy name for this form number, whether nursing home and residential care only, home care only, comprehensive, individual or group, partnership, tax or nontax qualified, all issue ages available, reimbursement or per diem.]			
Maximum Policy Benefit [List all maximum benefit amounts in years offered and dollars.]	30** day elimination period 3 year maximum policy benefit / \$109,000 * Other assumptions		
Nursing Home Daily Benefit Amount [List range in which daily benefit is offered from minimum to maximum.]	Issue Age	\$100 Daily Benefit Amount for Nursing Home & Home Care	\$100 Daily Benefit Amount for Nursing Home & Home Care (with 5% compound Inflation Protection)
Residential Care Daily Benefit Amount * [List all percentage amounts for which residential care benefits are offered as a percentage of the nursing home daily benefit.]	50		
	55		
	60		
	65		
	70		
	75		
Home Care Benefit Amount [List all percentage amounts for which home care benefits are offered as a percentage of the daily nursing home benefit. Specify whether paid as daily, weekly, or monthly.]	80		
	Other ages may be available.		
Elimination Period [List all days and/or amounts in which elimination periods are offered. Specify how policy counts home care service days towards elimination period.]	30** day elimination period Lifetime Benefit / Unlimited * Other assumptions		
	Issue Age	\$100 Daily Benefit Amount for Nursing Home & Home Care	\$100 Daily Benefit Amount for Nursing Home & Home Care (with 5% compound Inflation Protection)
Inflation Protection [List all options offered for inflation protection adjustment.]	50		
	55		
	60		
	65		
	70		
	75		
Waiver of Premium [List all options for comprehensive, nursing home only and home care only. Qualification rules.]	80		
	Other ages may be available.		

* The residential care benefit is ____% of the daily nursing home benefit. If this is a comprehensive policy, the home care benefit is ____% of the daily nursing home benefit. If this is a home care only policy, the daily benefit is \$____. [List the minimum amount available on the company's policy forms as a percentage of the daily nursing home benefit.]

Please refer to Section # for information on premium increases, if any, since 1990 for this company

** Carrier may use 20-day elimination period if a 30-day elimination period is not offered.]

1 If an insurer does not offer a policy for sale that fits the criteria
2 set forth in the sample premium portion of the policy comparison
3 section of the rate guide, the department shall include in that section
4 of the form for that policy a statement explaining that a policy
5 fitting that criteria is not offered by the insurer and that the
6 consumer may seek, from an agent, sample premium information
7 for the insurer's policy that most closely resembles the policy in
8 the sample.

9 The department shall use the format set forth in this section for
10 the policy comparison portion of the rate guide, unless the working
11 group convened pursuant to subdivision (a) designs an alternative
12 format and agrees that it should be used instead.

13 In compiling the policy comparison portion of the rate guide,
14 the department shall separate the group policies from the individual
15 policies available for sale so that group policies for all insurers
16 appear together in the guide and individual policies for all insurers
17 appear together in the guide.

18 The policy comparison portion of the rate guide shall contain a
19 cross-reference for each policy form listed indicating the page in
20 the rate guide where rate information on the policy form can be
21 found.

22 (c) The department shall publish, on the department's Internet
23 Web site, a premium history of each insurer that writes long-term
24 care policies for all the types of long-term care insurance and
25 coverages issued by the insurer in each state. Each insurer shall
26 provide to the department all of the information listed in paragraph
27 (1) of subdivision (b) for each long-term care policy, including all
28 policies, whether issued by the insurer or purchased or acquired
29 from another insurer, issued in the United States for the current
30 year and for the nine preceding years.

31 (d) Insurers shall provide the information required pursuant to
32 subdivisions (b) and (c) no later than July 31 of each year,
33 commencing in 2000.

34 (e) The consumer rate guide shall be published no later than
35 December 1 of each year commencing in 2000, and shall be
36 distributed using all of the following methods:

37 (1) Through Health Insurance Counseling and Advocacy
38 Program (HICAP) offices.

39 (2) By telephone using the department's consumer toll-free
40 telephone number.

1 (3) On the department’s Internet Web site.

2 (4) A notice in the Long-Term Care Insurance Personal
3 Worksheet required by Section 10234.95.

4 (f) Notwithstanding any other provision of law, the data
5 submitted by insurers to the department pursuant to this section
6 are public records, and shall be open to inspection by members of
7 the public pursuant to the procedures of the California Public
8 Records Act. However, a trade secret, as defined in subdivision
9 (d) of Section 3426.1 of the Civil Code, is not subject to this
10 subdivision.

11 *SEC. 12. Section 10234.95 of the Insurance Code is amended*
12 *to read:*

13 10234.95. (a) Every insurer or other entity marketing long-term
14 care insurance shall:

15 (1) Develop and use suitability standards to determine whether
16 the purchase or replacement of long-term care insurance is
17 appropriate for the needs of the applicant.

18 (2) Train its agents in the use of its suitability standards.

19 (3) Maintain a copy of its suitability standards and make them
20 available for inspection upon request by the commissioner.

21 (b) The agent and insurer shall develop procedures that take
22 into consideration, when determining whether the applicant meets
23 the standards developed by the insurer, the following:

24 (1) The ability to pay for the proposed coverage and other
25 pertinent financial information related to the purchase of the
26 coverage.

27 (2) The applicant’s goals or needs with respect to long-term
28 care and the advantages and disadvantages of insurance to meet
29 these goals or needs.

30 (3) The value, benefits, and costs of the applicant’s existing
31 insurance, if any, when compared to the values, benefits, and costs
32 of the recommended purchase or replacement.

33 (c) (1) The issuer, and where an agent is involved, the agent,
34 shall make reasonable efforts to obtain the information set out in
35 subdivision (b). The efforts shall include presentation to the
36 applicant, at or prior to application, of the “Long-Term Care
37 Insurance Personal Worksheet,” contained in the Long-Term Care
38 Insurance Model Regulations of the National Association of
39 Insurance Commissioners. The personal worksheet used by the
40 insurer shall contain, at a minimum, the information in the NAIC

1 worksheet in not less than 12-point type. The insurer may request
2 the applicant to provide additional information to comply with its
3 suitability standards.

4 (2) In the premium section of the personal worksheet, the insurer
5 shall disclose all rate increases and rate increase requests for all
6 policies, whether issued by the insurer or purchased or acquired
7 from another insurer, in the United States ~~on or after January 1,~~
8 ~~1990.~~ *for the current year and for nine preceding years.*

9 (3) The premium section shall include a statement that reads as
10 follows: “A rate guide is available that compares the policies sold
11 by different insurers, the benefits provided in those policies, and
12 sample premiums. The rate guide also provides a history of the
13 rate increases, if any, for the policies issued by different insurers
14 in each state in which they do business, ~~since January 1, 1990.~~ *for*
15 *the current year and for the nine preceding years.* You can obtain
16 a copy of this rate guide by calling the Department of Insurance’s
17 consumer toll-free telephone number (1-800-927-HELP), by calling
18 the Health Insurance Counseling and Advocacy Program (HICAP)
19 toll-free telephone number (1-800-434-0222), or by accessing the
20 Department of Insurance’s Internet—~~web~~ *Web* site
21 (www.insurance.ca.gov).” If the personal worksheet is approved
22 prior to the availability of the rate guide, the worksheet shall
23 indicate that the rate guide will be available beginning December
24 1, 2000.

25 (4) A copy of the issuer’s personal worksheet shall be filed and
26 approved by the commissioner. A new personal worksheet shall
27 be filed and approved by the commissioner each time a rate is
28 increased in California and each time a new policy is filed for
29 approval by the commissioner. The new personal worksheet shall
30 disclose the amount of the rate increase in California and all prior
31 rate increases *for the nine preceding years* in California as well as
32 all prior rate increases and rate increase requests or filings in any
33 ~~other state.~~ *state for the nine preceding years.* The new personal
34 worksheet shall be used by the insurer within 60 days of approval
35 by the commissioner in place of the previously approved personal
36 worksheet.

37 (d) A completed personal worksheet shall be returned to the
38 issuer prior to the issuer’s consideration of the applicant for
39 coverage, except the personal worksheet need not be returned for

1 sale of employer group long-term care insurance to employees and
2 their spouses and dependents.

3 (e) The sale or dissemination outside the company or agency
4 by the issuer or agent of information obtained through the personal
5 worksheet is prohibited.

6 (f) The issuer shall use the suitability standards it has developed
7 pursuant to this section in determining whether issuing long-term
8 care insurance coverage to an applicant is appropriate.

9 (g) Agents shall use the suitability standards developed by the
10 insurer in marketing long-term care insurance.

11 (h) If the issuer determines that the applicant does not meet its
12 financial suitability standards, or if the applicant has declined to
13 provide the information, the issuer may reject the application.
14 Alternatively, the issuers shall send the applicant a letter similar
15 to the “Long-Term Care Insurance Suitability Letter” contained
16 in the Long-Term Care Model Regulations of the National
17 Association of Insurance Commissioners. However, if the applicant
18 has declined to provide financial information, the issuer may use
19 some other method to verify the applicant’s intent. Either the
20 applicant’s returned letter or a record of the alternative method of
21 verification shall be made part of the applicant’s file.

22 (i) The insurer shall report annually to the commissioner the
23 total number of applications received from residents of this state,
24 the number of those who declined to provide information on the
25 personal worksheet, the number of applicants who did not meet
26 the suitability standards, and the number who chose to conform
27 after receiving a suitability letter.

28 (j) This section shall not apply to life insurance policies that
29 accelerate benefits for long-term care.

30 *SEC. 13. Section 11520.5 of the Insurance Code is amended*
31 *to read:*

32 11520.5. No person shall transact in this state the business
33 described in this chapter without first procuring a certificate of
34 authority from the commissioner for such purpose. Application
35 for such certificate shall be made on a form prescribed by the
36 commissioner accompanied by a filing fee of one thousand seven
37 hundred seventy dollars (\$1,770). ~~Such~~ *The* certificate shall not
38 be granted until the applicant conforms to the requirements of this
39 chapter and the laws of this state prerequisite to its issue. After
40 such issue the holder shall continue to comply with the

1 requirements of this chapter and the laws of this state. ~~Where~~ *When*
2 a hearing is held under this section the proceedings shall be
3 conducted in accordance with Chapter 5 (commencing with Section
4 11500) of Part 1, Division 3, Title 2 of the Government Code, and
5 the commissioner shall have all of the powers granted therein.

6 Subject to the annual fee provisions herein, every certificate of
7 authority issued or held under this chapter shall be for an indefinite
8 term and, unless sooner revoked by the commissioner, shall
9 terminate upon occurrence of any of the following:

- 10 (a) Upon the holder's ceasing to exist as a separate entity.
- 11 (b) Upon the winding up or dissolution, or expiration or
12 forfeiture of the corporate existence of a corporate holder thereof.
- 13 (c) Upon winding up or dissolution of a holder not a corporation.
- 14 (d) In any event upon surrender by the holder of its certificate
15 of authority and cancellation of the same by the commissioner.

16 The commissioner shall not cancel a surrendered certificate of
17 authority until he is satisfied by examination, or otherwise, that
18 the former holder has discharged its annuity liabilities to residents
19 of this state or satisfactorily reinsured the same.

20 Notwithstanding the preceding provisions for a certificate of
21 authority of indefinite term, each holder of a certificate of authority
22 under this chapter shall owe and pay in advance to the
23 commissioner in lawful money of the United States an annual fee
24 of fifty-eight dollars (\$58) on account of ~~such a~~ *a* certificate of
25 authority until its final termination or revocation. ~~Such~~ *The* fee
26 shall be for annual periods commencing on July 1st of each year
27 and ending on June 30th of each year and shall be due on each
28 March 1st and shall be delinquent on and after each April 1st.

29 Each holder of a certificate of authority shall also be subject to
30 the payment in advance of the following fees, as appropriate:

- 31 (1) One hundred eighteen dollars (\$118) for each amended
32 certificate of authority caused by a change of the name of the
33 holder.
- 34 (2) Eighty-nine dollars (\$89) for the services and expenses of
35 the commissioner in connection with the filing of amended articles
36 by a holder.
- 37 (3) Three hundred fifty-four dollars (\$354) for all services and
38 expenses of the commissioner in connection with the withdrawal
39 of a holder of a certificate of authority under this chapter.

1 (e) Upon the receipt of a notice of filing of a petition by or
2 against a certificate holder under the United States Bankruptcy
3 Code for bankruptcy or reorganization, the commissioner shall
4 cease imposing, billing, or collecting the annual fees due under
5 this chapter and this section to the certificate holder.

6 (f) Upon notice of the suspension of the corporate status of the
7 certificate holder for a period of 12 months by the Secretary of
8 State, the commissioner shall terminate the certificate of authority
9 and shall deem the certificate to be terminated.

10 SEC. 14. Section 11691 of the Insurance Code is amended to
11 read:

12 11691. (a) (1) In order to provide protection to the workers
13 of this state in the event that the insurers issuing workers'
14 compensation insurance to employers fail to pay compensable
15 workers' compensation claims when due, except in the case of the
16 State Compensation Insurance Fund, every insurer desiring
17 admission to transact workers' compensation insurance, or workers'
18 compensation reinsurance business, or desiring to reinsure the
19 injury, disablement, or death portions of policies of workers'
20 compensation insurance under the class of disability insurance
21 shall, as a prerequisite to admission, or ability to reinsure the injury,
22 disablement, or death portion of policies of workers' compensation
23 insurance under the class of disability insurance, deposit cash
24 instruments or approved interest-bearing securities or approved
25 stocks readily convertible into cash, investment certificates, or
26 share accounts issued by a savings and loan association doing
27 business in this state and insured by the Federal Deposit Insurance
28 Corporation, certificates of deposit, or savings deposits in a bank
29 licensed to do business in this state, ~~or is either domiciled in and~~
30 ~~has a principal place of business in this state, or is a national bank~~
31 ~~association with a trust office located in this state,~~ or approved
32 letters of credit that perform in material respects as any other
33 security allowable as a form of deposit for purposes of a workers'
34 compensation deposit and that meet the standard set forth in Section
35 922.5, or approved securities registered with a qualified depository
36 located in a reciprocal state as defined in Section 1104.9, with that
37 deposit to be in an amount and subject to any exceptions as set
38 forth in this article. The deposit shall be made from time to time
39 as demanded by the commissioner and may be made with the
40 Treasurer, or a bank or savings and loan association authorized to

1 engage in the trust business pursuant to Division 1 (commencing
2 with Section 99) or Division 2 (commencing with Section 5000)
3 of the Financial Code, or a trust company. A deposit of securities
4 registered with a qualified depository located in a reciprocal state
5 as defined in Section 1104.9 may only be made in a bank or savings
6 and loan association authorized to engage in the trust business
7 pursuant to Division 1 (commencing with Section 99) or Division
8 2 (commencing with Section 5000) of the Financial Code, or a
9 trust company, licensed to do business and located in this state
10 *that is either domiciled in and has a principal place of business*
11 *in this state, or is a national bank association with a trust office*
12 *located in this state, that is a qualified custodian as defined in*
13 *paragraph (1) of subdivision (a) of Section ~~1104.9~~ 1104.9, and that*
14 *maintains deposits of at least seven hundred fifty million dollars*
15 *(\$750,000,000). The deposit shall be made subject to the approval*
16 *of the commissioner under those rules and regulations that he or*
17 *she shall promulgate. The deposit shall be maintained at a deposit*
18 *value specified by the commissioner, but in any event no less than*
19 *one hundred thousand dollars (\$100,000), nor less than the reserves*
20 *required of the insurer to be maintained under any of the provisions*
21 *of Article 1 (commencing with Section 11550) of Chapter 1,*
22 *relating to loss reserves on workers' compensation business of the*
23 *insurer in this state, nor less than the sum of the amounts specified*
24 *in subdivision (a) of Section 11693, whichever is greater. The*
25 *deposit shall be for the purpose of paying compensable workers'*
26 *compensation claims under policies issued by the insurer or*
27 *reinsured by the admitted reinsurer and expenses as provided in*
28 *Section 11698.02, in the event the insurer or reinsurer fails to pay*
29 *those claims when they come due. If the insurer providing the*
30 *deposit is domiciled in a state where a state statute, regulation, or*
31 *court decision provides that, with respect to covered claims within*
32 *the deductible amount that are paid by a guarantee association*
33 *after the entry of an order of liquidation under large deductible*
34 *workers' compensation policies, any part of the reimbursement*
35 *proceeds, other than the reasonable expenses of the receiver related*
36 *to treatment of deductible policy arrangements of insurance*
37 *companies in liquidation, owed by insureds on those deductible*
38 *amounts, whether paid directly or through a draw of collateral, are*
39 *general assets of the estate, then the amount of the insurer's deposit*
40 *pursuant to this article shall be calculated based on the gross*

1 amount of that insurer’s liabilities for loss and loss adjustment
 2 expenses under those policies without regard to the deductible,
 3 and those reserves shall not be reduced by any collateral or
 4 reimbursement obligations insureds were required to provide under
 5 those policies.

6 (2) ~~Nothing in this~~ *This section shall does not* require that the
 7 deposit be calculated based on gross amounts of liabilities
 8 described above if the domiciliary state does not have an existing
 9 statute, regulation, or court decision providing that the
 10 reimbursement proceeds described above are general assets of the
 11 estate.

12 (b) Each insurer or reinsurer desiring to have the ability to
 13 reinsure the injury, disablement, or death portions of policies of
 14 workers’ compensation under the class of disability insurance shall
 15 provide prior notice to the commissioner, in the manner and form
 16 prescribed by the commissioner of its intent to reinsure that
 17 insurance. In the event of late notice, a late filing fee shall be
 18 imposed on the reinsurer pursuant to Section 924 for failure to
 19 notify the commissioner of its intent to reinsure workers’
 20 compensation insurance.

21 (c) If the deposit required by this section is not made with the
 22 Treasurer, then the depositor shall execute a trust agreement in a
 23 form approved by the commissioner between the insurer, the
 24 institution in which the deposit is made or, where applicable, the
 25 qualified custodian of the deposit, and the commissioner, that
 26 grants to the commissioner the authority to withdraw the deposit
 27 as set forth in Sections 11691.2, 11696, 11698, and 11698.3. The
 28 insurer shall also execute and deliver in duplicate to the
 29 commissioner a power of attorney in favor of the commissioner
 30 for the purposes specified herein, supported by a resolution of the
 31 depositor’s board of directors. The power of attorney and director’s
 32 resolution shall be on forms approved by the commissioner, shall
 33 provide that the power of attorney cannot be revoked or withdrawn
 34 without the consent of the commissioner, and shall be
 35 acknowledged as required by law.

36 (d) (1) The commissioner shall require payment in advance of
 37 fees for the initial filing of a trust agreement with a bank, savings
 38 and loan association, or trust company on deposits made pursuant
 39 to subdivision (a); for each amendment, supplement, or other
 40 change to the deposit agreement; for receiving and processing

1 deposit schedules pursuant to this section; and for each withdrawal,
2 substitution, or any other change in the deposit. The fees shall be
3 set forth in the department's Schedule of Fees and Charges.

4 (2) The commissioner shall require payment in advance of a
5 fee for the initial filing of each letter of credit utilized pursuant to
6 subdivision (a). In addition, the commissioner shall require
7 payment in advance of a fee for each amendment of a letter of
8 credit. The fees shall be set forth in the department's Schedule of
9 Fees and Charges.

10 (e) Any workers' compensation insurer that deposits cash or
11 cash equivalents pursuant to this section shall be entitled to a
12 prompt refund of those deposits in excess of the amount determined
13 by the commissioner pursuant to subdivision (a). The commissioner
14 shall cause to be refunded any deposits determined by the
15 commissioner to be in excess of the amount required by subdivision
16 (a) within 30 days of that determination. In the alternative, an
17 insurer may use any excess deposit funds to offset a demand by
18 the commissioner to increase its deposit due to the failure of a
19 reinsurer to make a deposit pursuant to this section.

20 (f) (1) An admitted insurer reinsuring business covered in this
21 article (hereafter referred to as reinsurer) shall identify to the
22 commissioner, in a form prescribed by the commissioner, amounts
23 deposited for credit in the name of each ceding insurer.

24 (2) All reinsurance agreements covering claims and obligations
25 under business covered by this article, and allowable for purposes
26 of granting a ceding carrier a deposit credit, shall include a
27 provision granting the commissioner, in the event of a delinquency
28 proceeding, receivership, or insolvency of a ceding insurer, any
29 sums from a reinsurer's deposit that are necessary for the
30 commissioner to pay those reinsured claims and obligations, or to
31 ensure their payment by the California Insurance Guarantee
32 Association, deemed by the commissioner due under the
33 reinsurance agreement, upon failure of the reinsurer for any reason
34 to make payments under the policy of reinsurance. The
35 commissioner shall give 30 days' notice prior to drawing upon
36 these funds of an intent to do so. Notwithstanding the
37 commissioner's right to draw on these funds, the reinsurer shall
38 otherwise retain its right to determine the validity of those claims
39 and obligations and to contest their payment under the reinsurance
40 agreement. Prior to a reinsurer's deposit being drawn upon, in

1 whole or in part, by the department, the department shall provide
2 a reinsurer with an explanation of procedures that a reinsurer may
3 use to explain to the department why the use of the reinsurer's
4 deposit may not be appropriate under the reinsurance agreement.

5 (3) ~~No~~A reinsurer entering into a contract identified in paragraph
6 (2), beginning on or after January 1, 2005, may *not* cede claims
7 or obligations assumed from a ceding insurer unless the deposit
8 securing the ceded claims or obligations is governed by paragraph
9 (2) or, upon approval of the commissioner, would secure the ceded
10 claims or obligations in all material respects and in the same
11 manner as a deposit identified in paragraph (2) above.

12 (4) All sums received from the reinsurer by the commissioner
13 for those claims paid by the California Insurance Guarantee
14 Association shall be held separate and apart from and not included
15 in the general assets of the insolvent insurer, and shall be
16 transferred to the California Insurance Guarantee Association upon
17 receipt by the commissioner. In the event of a final judgment or
18 settlement adverse to the drawing of funds by the commissioner
19 pursuant to paragraph (2) or (3), the California Insurance Guarantee
20 Association shall repay funds it obtained to pay covered claims
21 and shall, if necessary, either levy a surcharge as needed or seek
22 legislative approval to levy the surcharge if the California Insurance
23 Guarantee Association is already levying the maximum surcharge
24 permissible under law.

25 (g) If a reinsurer has not maintained deposits as required by
26 subdivision (a) in amounts equal to the amounts of deposit credits
27 claimed by its ceding insurers, the commissioner, after notifying
28 the reinsurer and its ceding insurers of the deposit shortfall and
29 allowing 15 days from the date of the notice for the deposit shortfall
30 to be corrected, may disallow all or a portion of the reserve credits
31 claimed by the ceding insurers. A ceding insurer disallowed a
32 reserve credit pursuant to this provision shall immediately make
33 the deposit required by this section.

34 (h) For interest-bearing securities that are debt securities and
35 include principal payment features prior to maturity that are utilized
36 pursuant to subdivision (a), all principal payments received shall
37 be retained as part of the deposit.

38 (i) Withdrawal of any amount of the deposit required under
39 subdivision (a) that results in a reduction of the required amount

1 of the deposit may only occur with the prior written consent of the
2 commissioner.

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