

Senate Bill No. 488

Passed the Senate August 29, 2016

Secretary of the Senate

Passed the Assembly August 22, 2016

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 1722, 1751.5, 15001, 15008, 15010, 15011, 15013, 15017, 15020, 15027, 15027.1, 15028, 15031, 15036, 15053, 15056, 15060, and 15062 of, to add Sections 15009.1 and 15059.2 to, to repeal Section 15015 of, and to repeal and add Section 15016 of, the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 488, Block. Public insurance adjusters.

Existing law, the Public Insurance Adjusters Act, sets forth various requirements with respect to operation as a public insurance adjuster in this state, including, but not limited to, that the person be licensed and licensing qualifications and application requirements for public insurance adjusters, nonresident public insurance adjusters, and interim public insurance adjusters. Any person who knowingly falsifies the fingerprints or photographs submitted as part of the application process is guilty of a felony, and any person who violates any other provision governing public insurance adjusters is guilty of a misdemeanor punishable by a fine not to exceed \$500 or by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment. Existing law prescribes a schedule for various public insurance adjuster application, license, and license renewal fees.

This bill would revise and recast the above provisions by, among other things, expanding the categories of persons exempt from the act to include, among others, a person who negotiates or settles claims arising under a life or health insurance policy or an annuity contract and a person who settles subrogation claims between insurers. The bill would make certain categories of persons who are exempt from the existing act, subject to the act, thereby requiring those persons to seek licensure in order to practice as a licensee under the act. The bill would place additional eligibility requirements on applicants for a nonresident license. The bill would also repeal the provisions relating to an interim license, and would instead create an apprentice public insurance adjuster license to facilitate the training necessary to ensure reasonable competency

in the responsibilities and duties of a public insurance adjuster, and would set forth the various terms and conditions of the license. The bill would make an apprentice public insurance adjuster subject to a felony conviction if he or she knowingly falsifies the fingerprints or photographs submitted as part of his or her application for a license. The bill would also change various public insurance adjuster application, license, and renewal fees, as prescribed.

Existing law requires an individual who holds a public insurance adjuster license and who is not exempt, as specified, to satisfactorily complete a minimum of 24 hours of continuing education courses pertinent to the duties and responsibilities of a public insurance adjuster license, to be reported to the Insurance Commissioner on a biennial basis in conjunction with his or her license renewal cycle.

This bill would require a person who fails to meet those continuing education and reporting requirements, and who has not been granted an extension of time by the commissioner within which to comply, to have his or her license placed on inactive status until he or she demonstrates to the satisfaction of the commissioner that he or she has complied with all of those requirements, as specified. The bill would also prohibit a licensee who is placed on inactive status from performing specified activities.

Because the bill would create new crimes, the bill would impose a state-mandated local program.

This bill also would incorporate additional changes in Sections 1722 and 1751.5 of the Insurance Code proposed by AB 2588, to be operative if AB 2588 and this bill are both enacted and become effective on or before January 1, 2017, and this bill is enacted last.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

SECTION 1. The Legislature finds and declares that the changes to the fee amounts in this act codify the current fees charged by the Department of Insurance. The fees in the current statutes, as noted in Sections 15031 and 15060 of the Insurance Code, do not reflect the incremental increases approved by the Insurance Commissioner pursuant to Section 12978 of the Insurance Code since 1985.

SEC. 2. Section 1722 of the Insurance Code is amended to read:

1722. If a natural person while licensed pursuant to the provisions of this chapter or Chapter 6 (commencing with Section 1760), Chapter 7 (commencing with Section 1800), or Chapter 8 (commencing with Section 1831) of this part, Part 5 (commencing with Section 12140) of Division 2, or Chapter 2 (commencing with Section 15000) of Division 5 enters the military service of the United States and is in that service at a time prescribed for the filing of a renewal application, the filing of that application is waived, and the license held by that licensee at the time of his or her entry into military service shall remain in force during the period of that military service and until the end of the license year in which he or she is released from that service but not for less than six months after that release. During that period the person may secure a license of the type held by him or her on his or her entry into military service upon the filing of an application and paying the fee therefor without the necessity of taking an examination or paying a penalty.

SEC. 2.5. Section 1722 of the Insurance Code is amended to read:

1722. If a natural person while licensed pursuant to the provisions of this chapter or Chapter 6 (commencing with Section 1760), Chapter 7 (commencing with Section 1800), or Chapter 8 (commencing with Section 1831) of this part, Part 5 (commencing with Section 12140) of Division 2, or Chapter 1 (commencing with Section 14000) or Chapter 2 (commencing with Section 15000) of Division 5 enters the military service of the United States and is in that service at a time prescribed for the filing of a renewal application, the filing of that application is waived, and the license held by that licensee at the time of his or her entry into military

service shall remain in force during the period of that military service and until the end of the license year in which he or she is released from that service but not for less than six months after that release. During that period, that person may secure a license of the type held by him or her on his or her entry into military service upon the filing of an application and paying the fee therefor without the necessity of taking an examination or paying a penalty.

SEC. 3. Section 1751.5 of the Insurance Code is amended to read:

1751.5. The fees required by this chapter and by Chapter 6 (commencing with Section 1760), Chapter 7 (commencing with Section 1800), and Chapter 8 (commencing with Section 1831) of this part, and by Chapter 2 (commencing with Section 15000) of Division 5 are filing fees, no portion of which shall be refunded whether or not the application is acted upon or the examination is taken.

SEC. 3.5. Section 1751.5 of the Insurance Code is amended to read:

1751.5. The fees required by this chapter and by Chapter 6 (commencing with Section 1760), Chapter 7 (commencing with Section 1800), and Chapter 8 (commencing with Section 1831) of this part, and by Chapter 1 (commencing with Section 14000) and Chapter 2 (commencing with Section 15000) of Division 5 are filing fees, no portion of which shall be refunded whether or not the application is acted upon or the examination is taken.

SEC. 4. Section 15001 of the Insurance Code is amended to read:

15001. As used in this chapter, the following terms have the following meanings:

(a) “Apprentice public insurance adjuster” means a person who is qualified in all respects as a public adjuster, except as to experience, education, or training.

(b) “Business entity” means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

(c) “Catastrophic disaster” means an event that results in large numbers of deaths and injuries; causes extensive damage or destruction of facilities that provide and sustain human needs; produces an overwhelming demand on state and local response resources and mechanisms; causes a severe long-term effect on

general economic activity; and severely affects state, local, and private sector capabilities to begin and sustain response activities. A catastrophic disaster shall be declared by the President of the United States or the Governor of the state or district in which the disaster occurred.

(d) “Commissioner” means the Insurance Commissioner.

(e) “Department” means the Department of Insurance.

(f) “Fingerprints” means an impression of the lines on the finger taken for the purposes of identification.

(g) “Home state” means the District of Columbia and any state or territory of the United States in which the public insurance adjuster’s principal place of residence or principal place of business is located. If neither the state in which the public insurance adjuster maintains the principal place of residence nor the state in which the public insurance adjuster maintains the principal place of business has a substantially similar law governing public insurance adjusters, the public insurance adjuster may declare another state in which it becomes licensed and acts as a public insurance adjuster to be the “home state.”

(h) “Licensee” means a person licensed under this chapter.

(i) “Person” includes any individual, firm, company, association, organization, partnership, limited liability company, and corporation.

SEC. 5. Section 15008 of the Insurance Code is amended to read:

15008. This chapter does not apply to any of the following:

(a) An attorney at law admitted to practice in this state, when performing his or her duties as an attorney at law.

(b) Photographers, estimators, appraisers, engineers, and arbitrators, who are employed exclusively by a public insurance adjuster for the purpose of furnishing technical assistance to a licensed public insurance adjuster.

(c) A person who negotiates or settles claims arising under a life or health insurance policy or an annuity contract.

(d) A person who settles subrogation claims between insurers.

SEC. 6. Section 15009.1 is added to the Insurance Code, to read:

15009.1. (a) The applicant shall complete a 20-hour preclicensing course of study for the lines of authority for a public insurance adjuster license.

(b) An applicant who resides in another state that does not license public insurance adjusters is eligible to designate California as his or her home state. He or she is required to complete the prelicensing education, pass the public insurance adjuster examination, and meet the license application requirements before a license can be issued.

(c) An applicant licensed as a public insurance adjuster in another state is exempt from completing a prelicensing education course to apply for a California public insurance adjuster license if, at the time of application, the applicant's out-of-state license is current or was canceled within 90 calendar days.

SEC. 7. Section 15010 of the Insurance Code is amended to read:

15010. An application shall be verified and shall include all of the following:

- (a) The full name and business address of the applicant.
- (b) The name under which the applicant intends to do business.
- (c) A statement as to the general nature of the business in which the applicant intends to engage.
- (d) If the applicant is a person other than an individual, the full name and resident address of each of its partners, officers, and directors.
- (e) Two photographs, not older than six months, of the applicant, of a type prescribed by the commissioner, and one classifiable set of his or her fingerprints, to be sent to a live scan fingerprint provider as directed by the department, if fingerprints are not submitted in person with a live scan fingerprinting service provider certified by the Department of Justice.
- (f) A verified statement of his or her experience qualifications.
- (g) Other information, evidence, statements, or documents as may be required by the commissioner.

SEC. 8. Section 15011 of the Insurance Code is amended to read:

15011. Before an application for a license is granted, the applicant shall meet all of the following requirements:

- (a) Be at least 18 years of age.
- (b) Shall not have committed acts or crimes constituting grounds for denial of licensure under Section 1668 or 1669.
- (c) Shall have at least two years' experience in the handling of loss claims under insurance contracts as determined by regulations

adopted by the commissioner, and be competent to transact business and discharge the responsibilities of a public insurance adjuster in a manner as to safeguard the interests of the public. A person who has been licensed as an apprentice public insurance adjuster, as set forth in Section 15016, for 12 full months, shall be considered to have met the two-year experience requirement.

(d) Maintain an office in the State of California with public access during regular business hours.

(e) Pass an exam given by the commissioner in regard to property loss adjusting.

(f) Post a surety bond executed by a surety company authorized to do business in this state in the sum of twenty thousand dollars (\$20,000).

(g) For an organization applicant, designate a licensed individual public insurance adjuster to be responsible for the organization's compliance with the insurance laws, rules, and regulations of this state.

(h) For an organization applicant, authorize only licensed individual public insurance adjusters to exercise authority under the organization's license.

(i) Comply with any requirement to file supplementary documents, affidavits, and statements as may be necessary to obtain a full disclosure of the information that will aid the commissioner in determining whether the prerequisites for the license have been met.

SEC. 9. Section 15013 of the Insurance Code is amended to read:

15013. Each applicant for a license as a public insurance adjuster shall, prior to issuance of the license, personally take and pass, to the satisfaction of the commissioner, an examination given by the department as follows:

(a) The examination shall be prescribed by the commissioner and shall be of sufficient scope to reasonably test the applicant's knowledge, among other things, of basic insurance theory, essential elements of contracts, technical competence in the handling of the various lines for which the applicant is being tested, claims ethics and knowledge of the Unfair Practices Act, and the duties and responsibilities of public insurance adjusters under the law.

(b) The examination shall be given to applicants under the supervision of the department or the department's examination contractor and shall be in written form.

(c) The commissioner shall, within a reasonable period of time, not to exceed 30 days, transmit the results of the examination and action taken on the application to the applicant.

(d) In the event an applicant who is otherwise qualified fails the examination, the commissioner may administer a reexamination.

(e) The examination shall be given at those times and places within the state as the commissioner deems reasonably necessary to serve the convenience of the department and applicants.

SEC. 10. Section 15015 of the Insurance Code is repealed.

SEC. 11. Section 15016 of the Insurance Code is repealed.

SEC. 12. Section 15016 is added to the Insurance Code, to read:

15016. (a) The apprentice public insurance adjuster license is a license to facilitate the training necessary to ensure reasonable competency to fulfill the responsibilities of a public insurance adjuster as defined in Section 15007.

(b) The apprentice public insurance adjuster license is subject to the following terms and conditions:

(1) The applicant shall submit, with an application for an initial apprentice public insurance adjuster license, an attestation or certification from a licensed public insurance adjuster assuming responsibility for all actions of that applicant.

(2) The apprentice public insurance adjuster is authorized to adjust claims only in California.

(3) The applicant is required to qualify under subdivisions (a) and (b) of Section 15011.

(4) The applicant is required to pay a license fee of one hundred dollars (\$100).

(5) The applicant is required to comply with any requirement to file supplementary documents, affidavits, and statements as may be necessary to obtain a full disclosure of the information that will aid the commissioner in determining whether the prerequisites for the license have been met.

(6) The apprentice public insurance adjuster shall not be required to take and successfully complete the prescribed public insurance adjuster examination.

(7) The licensee shall at all times be an employee of a public insurance adjuster and be subject to training, direction, and control by a licensed public insurance adjuster.

(8) The apprentice public insurance adjuster license is for a period not to exceed 12 months, and the license shall not be renewed.

(9) The licensee is restricted to participation in factual investigation, tentative closing, and solicitation of losses subject to the review and final determination of a licensed public insurance adjuster.

(10) The licensee shall be subject to suspension, revocation, or conditions in accordance with Section 1668.

(11) The applicant shall submit two photographs, not older than six months, of the applicant, of a type prescribed by the commissioner, and one classifiable set of his or her fingerprints, to be sent to a live scan fingerprint provider as directed by the department, if fingerprints are not submitted in person with a live scan fingerprinting service provider certified by the Department of Justice.

(12) The apprentice public insurance adjuster shall complete the 20-hour preclicensing education course of study as defined in Section 15009.1 during the license period.

SEC. 13. Section 15017 of the Insurance Code is amended to read:

15017. (a) A nonresident license shall be issued by the commissioner to qualified persons who meet the requirements set forth in Section 15011, and who have appointed the commissioner as an agent for service of process in this state.

(b) Unless denied licensure pursuant to Sections 15018, 15018.5, and 15019, a nonresident person shall receive a nonresident public insurance adjuster license if all of the following apply:

(1) The person is currently licensed in good standing as a public insurance adjuster in his or her home state.

(2) The person has paid the fees required by Section 15060.

(3) The person has provided proof of financial responsibility as required by Section 15033.

(4) The individual has submitted to the commissioner the completed application for licensure.

(5) The person's home state awards nonresident public insurance adjuster licenses to residents of California on the same basis.

SEC. 14. Section 15020 of the Insurance Code is amended to read:

15020. The form and content of the license shall be determined by the commissioner.

SEC. 15. Section 15027 of the Insurance Code is amended to read:

15027. (a) A licensee shall not, directly or indirectly, act within this state as a public insurance adjuster without having first entered into a contract, in writing, on a form approved by the insurance commissioner and executed in duplicate by the public adjuster and the insured or a duly authorized representative. One original contract shall be kept on file by the licensee, available at all times for inspection, without notice, by the commissioner or his or her duly authorized representative, and one original contract shall be given to the insured.

(b) The written contract between the licensee and the insured shall contain each of the following:

- (1) Title of “Public Adjuster Contract.”
- (2) The name, business name, license number, telephone number, and address of the licensee.
- (3) The name and address of the insured.
- (4) A description of the loss and its location, if applicable.
- (5) The name of the insurer and the policy number, if known.
- (6) The full salary, fee, commission, or other consideration the licensee is to receive for services under the contract.
- (7) A public adjuster’s fee, commission, or other valuable consideration shall not cause the insured to receive less than any amount paid to the insured by the insurer prior to the date of the written contract between the insured and the public adjuster.
- (8) A description of the services to be provided to the insured.
- (9) Signatures of the licensee and the insured.
- (10) The date the contract was signed by the licensee and the date the contract was signed by the insured.
- (11) The following statement: “As a public adjuster, I am required by the California Insurance Code to post a surety bond in the sum of \$20,000 to cover certain kinds of claims made by you, the insured. If you have any questions concerning the surety bond, you may contact the California Department of Insurance Licensing Hotline at 1-800-967-9331 or www.insurance.ca.gov.”

(12) A statement of the compensation to the licensee, including the percentage and base to which the percentage applies.

(13) A statement that the insured has the right to cancel the contract within three business days of signing it and being provided the signed contract.

(c) A contract covered by this section shall not contain a contract term that does any of the following:

(1) Allows the licensee's fee to be collected when money is due from an insurer, but not paid, or allows a licensee to collect the entire fee from the first payment issued by an insurer, rather than as a percentage of each payment issued by an insurer.

(2) Requires the insured to authorize an insurer to issue a payment only in the name of the licensee.

(3) Imposes late fees or collection costs on the insured.

(d) A licensee shall not solicit or attempt to solicit a client for employment during a loss-producing occurrence. A loss-producing occurrence continues to exist when any of the following conditions exist at the property that is subject to solicitation:

(1) Any of the circumstances that caused the loss are present at the property where the solicitation would otherwise take place.

(2) Emergency responders are present at the property where the solicitation would otherwise take place.

(3) An evacuation order is still in effect at the property where the solicitation would otherwise take place.

(e) A licensee or any other person or entity offering, for a fee, service regulated by this chapter shall not solicit a policyholder for employment or initiate any contact with a policyholder between the hours of 6 p.m. and 8 a.m., unless requested by the policyholder.

(f) A licensee shall not use any form of contract other than that approved by the commissioner and that contains each of the following:

(1) A provision allowing the client to cancel the contract by written notice sent or delivered by certified mail, return receipt requested, or other form of mailing that provides proof of mailing, to the licensee by midnight of the third business day after the day on which the client signs a contract that complies with this section and is provided a copy of that signed contract. Each copy of the contract shall contain a completed form, captioned "Notice of Cancellation," that shall be placed at the end of the contract and

be separated from the remainder of the contract by a printed line. Nothing shall be printed on the reverse side of the notice form. The notice form shall be completed by the licensee, and shall contain in type of at least 10-point the following statement written in the same language, e.g., Spanish, as used in the contract:

Notice of Cancellation

(Date of Contract)

You may cancel this contract within three business days from the above date that you signed the contract and you were provided with a copy of that signed contract, except that, as it pertains to a disaster as defined in Section 15001, your right to cancel is five calendar days without any penalty or obligation to pay your public adjuster, other than for reimbursement of moneys paid by your public adjuster for out-of-pocket emergency expenses for you or on your behalf. If your public adjuster seeks reimbursement from you for out-of-pocket emergency expenses, your public adjuster shall provide you with an itemized statement of those emergency expenses advanced to you or on your behalf if the cancellation is made within the first three business days after the contract was signed by you and you were provided a copy of the signed contract. Nothing in this contract permits your public adjuster to recover any costs, except for out-of-pocket emergency expenses advanced to you.

If you cancel, any money or other consideration paid by you will be returned within five business days following the receipt of your cancellation notice, and any security interest arising out of the transaction will be canceled.

To cancel this contract, mail or deliver by certified mail, return receipt requested, or other form of mailing that provides proof of mailing, a signed and dated copy of this cancellation notice, or any other written notice, or send a telegram to:

(name of public adjuster)

at

(address of public adjuster’s place of business)

not later than midnight of _____
(Date)

I hereby cancel this contract _____
(Date)

(Client’s signature)

(2) The statement “WE REPRESENT THE INSURED ONLY” prominently displayed in at least 10-point type.

(3) A provision disclosing the percentage of the insured’s claim, or other fee, that the licensee will charge for his or her services. The licensee shall obtain the initials of the insured next to this provision.

(4) A conspicuous statement in at least 10-point type in immediate proximity to the space reserved for the client’s signature, as follows: “You may cancel this contract at any time before midnight of the third business day after the date of this contract. See the notice of cancellation form at the end of this contract for an explanation of this right.”

(g) A licensee shall not knowingly make any false report to his or her employer or divulge to any other person, except as he or she may be required by law to do so, any information acquired by him or her except at the direction of the employer or a client for whom the information is obtained.

(h) A licensee shall not use a badge in connection with the official activities of the licensee’s business.

(i) A licensee shall not permit an employee or agent in his or her own name to advertise, engage clients, furnish reports, or present bills to clients, or in any manner whatever to conduct business for which a license is required under this chapter.

(j) Pursuant to subdivisions (a) and (c) of Section 15006, the commissioner shall have the authority to enforce the provisions of this chapter and prosecute violations thereunder committed by unlicensed persons or entities that hold themselves out or act as public insurance adjusters.

(k) For purposes of this section, “business day” shall have the same meaning given to that term in subdivision (e) of Section

1689.5 of the Civil Code, as in effect on the operative date of this statute.

(l) The contract and the notice of cancellation set forth in paragraph (1) of subdivision (f) shall be written in the same language, e.g., Spanish, as principally used in the negotiation of the contract.

(m) Within five business days after a contract has been canceled, the licensee shall tender to the client any payments made by the client and any note or other evidence of indebtedness, including an itemized statement of all amounts tendered to the client.

(n) The licensee is not entitled to compensation for services performed prior to cancellation, other than for reimbursement of moneys paid by the licensee for out-of-pocket emergency expenses for the client or on behalf of the client. If the licensee seeks reimbursement from the client for out-of-pocket emergency expenses, and if the cancellation is made within the first three business days after the contract was initiated, the licensee shall provide the client with an itemized statement of those emergency expenses advanced to the client or on behalf of the client by the licensee. Nothing in this subdivision shall permit the licensee to recover any costs, except for out-of-pocket emergency expenses advanced to the client. Any security interest shall be canceled upon cancellation of the contract.

(o) Notice of cancellation given by the client need not take the particular form specified in paragraph (1) of subdivision (f). Notice of cancellation, however expressed, is effective if it indicates the intention of the client not to be bound by the contract.

(p) Cancellation occurs when the client gives written notice of cancellation by certified mail, return receipt requested, or other form of mailing that provides proof of mailing, to the licensee at the address specified in the contract.

(q) Notice of cancellation, if given by mail, is effective when sent by certified mail, return receipt requested, or other form of mailing that provides proof of mailing, properly addressed with postage prepaid.

(r) Until the licensee has complied with this section, the client may cancel the contract.

(s) The contracts shall be executed in duplicate. The licensee shall retain one original contract, and shall provide the insured with an original contract.

(t) The licensee shall provide the client with an original contract and notice of cancellation at the time the client signs the contract.

(u) Any confession of judgment or waiver of the provisions of this chapter shall be deemed contrary to public policy and shall be void and unenforceable.

(v) Prior to the signing of the contract, the licensee shall provide the insured with a separate printed disclosure document in the following form that bears the name and license number of the licensee:

“DISCLOSURE

There are three types of insurance adjusters that could be involved in the processing of your insurance claim. The definitions of the three types are as follows:

(1) Public adjusters means the insurance adjusters who do not work for your insurance company. They work for you, the insured, to assist in the preparation, presentation, and settlement of your claim. You hire them by signing a contract and agreeing to pay them a fee or commission based on a percentage of the settlement, or other method of compensation. Public adjusters are required to be licensed, bonded, and tested by the State of California to represent your interest only.

(2) Company adjusters means the insurance adjusters who are employees of your insurance company. They represent your insurance company and are paid by your insurance company. They will not charge you a fee and are not individually licensed or tested by the State of California.

(3) Independent adjusters means the insurance adjusters who are hired on a contract basis by your insurance company to represent the company in the settlement of the claim. They are paid by your insurance company. They will not charge you a fee.

You have the right, but are not required, to use the services of a public adjuster in the preparation and handling of your insurance claim.

Public adjusters cannot solicit your business while the loss is underway, or between the hours of 6 p.m. and 8 a.m.

Your “Public Adjuster Contract,” with a public adjuster representing you, should clearly indicate the amount of the fee you will be paying to your public adjuster. Your contract, with this fee

percentage, should be acknowledged by your initials on the “Public Adjuster Contract.” The salary, fee, commission, or other consideration is to be paid by you (the insured), not the insurance company (insurer).

You have the right to cancel the contract with your public adjuster, without any penalty or obligation, within three business days from the date the contract is signed. If the contract was established from a catastrophic disaster as defined in subdivision (c) of Section 15001, the insured has the right to cancel within five calendar days.

If you cancel the contract with your public adjuster, any money or other consideration paid by you will be returned within five business days following the receipt of your cancellation notice, and any security interest arising out of the transaction will be canceled.

To cancel the contract with your public adjuster, mail or deliver by certified mail, return receipt requested, or other form of mailing that provides proof of mailing, a signed and dated copy of the cancellation notice, or any other written notice, or send a telegram to the public adjuster at the address in the contract.

You have the right to, and may, communicate with your insurance company at any time if you feel the need during the claims process.

If you have any concerns or questions, the officers at the California Department of Insurance Consumer Hotline are there to help you. Please contact them at 1-800-927-HELP (4357) or www.insurance.ca.gov.”

(w) No later than three business days after the cancellation has expired, the public adjuster shall notify the insurer, its adjuster, or its attorney, that he or she has entered into a written contract with the insured.

(x) If the licensee misrepresents or conceals a material fact from the insured prior to execution of the contract, the insured is entitled to rescind the contract without time limit.

(y) Notwithstanding any other provision of this section, if a property loss is included in an area that is subject to a catastrophic disaster, as defined in Section 15001, the insured shall have the right to cancel a contract with a public adjuster within five calendar days of signing it and being provided a copy of the signed contract.

SEC. 16. Section 15027.1 of the Insurance Code is amended to read:

15027.1. (a) In addition to the restrictions in subdivision (e) of Section 15027, a licensee shall not solicit a contract of engagement for residential properties under this chapter that are included in an area subject to a catastrophic disaster until seven calendar days have elapsed from the conclusion of a loss-producing occurrence as defined in subdivision (d) of Section 15027.

(b) Subdivision (a) shall not apply if the licensee is contacted directly by the insured or the insured's representative.

(c) Nothing in subdivision (a) shall prohibit a licensee from providing a policyholder, without making personal contact with the policyholder, with accurate written materials explaining services provided by public insurance adjusters.

SEC. 17. Section 15028 of the Insurance Code is amended to read:

15028. No person licensed as a public insurance adjuster shall do any of the following:

(a) Use any misrepresentation to solicit a contract or agreement to adjust a claim.

(b) Solicit or accept remuneration from, or have a financial interest in, any salvage, repair or other firm which obtains business in connection with any claim he or she has a contract or agreement to adjust.

(c) Advance moneys to any potential client or insured in order to obtain business.

(d) Offer to pay a fee, commission, or other valuable consideration, exceeding one hundred dollars (\$100), to a person for referring a loss unless he or she employs that person to so act for him or her and that person is licensed to act as an adjuster under the provisions of this chapter.

(e) Permit an employee or agent, in his or her own name, to advertise, engage clients, furnish reports, present bills to clients, or in any manner conduct business for which a license is required pursuant to this chapter.

SEC. 18. Section 15031 of the Insurance Code is amended to read:

15031. (a) A licensee shall not conduct a business under a fictitious or other business name unless and until he or she has obtained the written authorization of the commissioner to do so.

(b) The commissioner shall not authorize the use of a fictitious or other business name that is so similar to that of a public officer or agency or that is used by another licensee that the public may be confused or misled thereby.

(c) The authorization shall require, as a condition precedent to the use of a fictitious name, that the licensee comply with Section 1724.5.

(d) A licensee desiring to conduct his or her business under more than one fictitious name shall obtain the authorization of the commissioner in a manner prescribed in this section for the use of additional fictitious names.

(e) The licensee shall pay a fee of twenty-five dollars (\$25) for each authorization to use an additional fictitious name and for each change in the use of a fictitious business name. If the original license is issued in a nonfictitious name and authorization is requested to have the license reissued in a fictitious business name, the licensee shall pay a fee of twenty-five dollars (\$25) for that authorization.

SEC. 19. Section 15036 of the Insurance Code is amended to read:

15036. In lieu of the surety bond required by this chapter there may be deposited with the State of California the sum of twenty thousand dollars (\$20,000) in cash, or evidence of deposit of the sum of twenty thousand dollars (\$20,000) in banks authorized to do business in this state and insured by the Federal Deposit Insurance Corporation, or investment certificates or share accounts in the amount of twenty thousand dollars (\$20,000) issued by a savings association doing business in this state and insured by the Federal Deposit Insurance Corporation, or evidence of a certificate of funds or share account of the sum of twenty thousand dollars (\$20,000) in a credit union as defined in Section 14002 of the Financial Code whose share deposits are guaranteed by the National Credit Union Administration or guaranteed by any other agency approved by the Department of Business Oversight.

SEC. 20. Section 15053 of the Insurance Code is amended to read:

15053. A person who knowingly falsifies the fingerprints or photographs submitted under subdivision (f) of Section 15010 or paragraph (12) of subdivision (b) of Section 15016 is guilty of a felony. A person who violates any of the other provisions of this

chapter is guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars (\$500) or by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment.

SEC. 21. Section 15056 of the Insurance Code is amended to read:

15056. (a) Except as otherwise provided in this article, an expired license or branch office certificate may be renewed at any time within one year after its expiration on the filing of an application for renewal on a form prescribed by the commissioner, and the payment of a renewal fee in effect on the actual renewal date. If the license or certificate is renewed after its expiration, the licensee, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever occurs last. If so renewed, the license or certificate shall continue in effect through the date provided in Section 15054 that next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

(b) Renewal of a license or certificate does not prohibit the bringing of disciplinary proceedings for an act committed before the effective date of the renewal.

SEC. 22. Section 15059.2 is added to the Insurance Code, to read:

15059.2. A person who fails to meet the requirements imposed by Section 15059.1, and who has not been granted an extension of time by the commissioner within which to comply, shall have his or her license placed on inactive status until he or she demonstrates to the satisfaction of the commissioner that he or she has complied with all of the requirements of this article and all other applicable law. A licensee placed on inactive status may not perform the activities described in Section 1631. If a person cannot perform the requirements of this article due to a disability or inactivity due to special circumstances, the commissioner shall provide a procedure for the person to place his or her license on inactive status until the person demonstrates to the satisfaction of the commissioner that he or she has complied with all of the requirements of this article for the period of disability or inactivity.

SEC. 23. Section 15060 of the Insurance Code is amended to read:

15060. The amount of fees prescribed by this chapter is that in the following schedule:

(a) The fee for the qualifying examination for an original license is sixty-two dollars (\$62).

(b) The application fee for an original branch office certificate is thirty-five dollars (\$35).

(c) The fee for an original license application is two hundred forty dollars (\$240). If the license will expire less than one year after its issuance, then the fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the license is issued.

(d) The renewal fees are as follows:

(1) For a license as a public insurance adjuster, two hundred forty dollars (\$240).

(2) For a branch office certificate, fifty dollars (\$50).

(e) The fee for replacing an identification card is twenty-five dollars (\$25).

(f) The delinquency fee shall be 50 percent of the renewal fee in effect on the date of expiration.

(g) The fee for reexamination of an applicant is twenty-five dollars (\$25).

SEC. 24. Section 15062 of the Insurance Code is amended to read:

15062. Application or license fees shall not be refunded pursuant to Section 1751.5.

SEC. 25. (a) Section 2.5 of this bill incorporates amendments to Section 1722 of the Insurance Code proposed by both this bill and Assembly Bill 2588. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2017, (2) each bill amends Section 1722 of the Insurance Code, and (3) this bill is enacted after Assembly Bill 2588, in which case Section 2 of this bill shall not become operative.

(b) Section 3.5 of this bill incorporates amendments to Section 1751.5 of the Insurance Code proposed by both this bill and Assembly Bill 2588. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2017, (2) each bill amends Section 1751.5 of the Insurance Code,

and (3) this bill is enacted after Assembly Bill 2588, in which case Section 3 of this bill shall not become operative.

SEC. 26. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2016

Governor