

AMENDED IN SENATE AUGUST 15, 1996

AMENDED IN SENATE JUNE 26, 1996

AMENDED IN ASSEMBLY MAY 2, 1996

AMENDED IN ASSEMBLY APRIL 10, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 2177

Introduced by Assembly Member Miller

February 7, 1996

An act to amend Sections 17002 and 17052 of the Corporations Code, and to amend Sections 1628 and ~~1647~~, ~~1647~~, and 1765.2 of, and to add Sections 1647.5 and 1656.2 to, the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2177, as amended, Miller. Insurance.

Under existing law, limited liability companies are prohibited from engaging in *the* insurance business. Existing law authorizes individuals, partnerships, associations, or corporations to be insurance agents or brokers.

This bill would authorize limited liability companies to be insurance agents ~~or~~ brokers, *or surplus lines brokers*. The bill would require an application by a limited liability company for a license as an insurance agent or broker to contain specified information, including information that may be required by the Insurance Commissioner, and would require licensed limited liability companies to maintain insurance or

specified security for claims against it. The bill would make related changes.

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

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

1 SECTION 1. Section 17002 of the Corporations Code
2 is amended to read:

3 17002. Subject to any limitations contained in the
4 articles of organization and to compliance with any other
5 applicable laws, a limited liability company may engage
6 in any lawful business activity, except the banking
7 business, the business of issuing policies of insurance and
8 assuming insurance risks, or the trust company business.

9 ~~SEC. 2. Section 17052 of the Corporations Code is~~
10 ~~amended to read:~~

11 ~~17052. The name of each limited liability company as~~
12 ~~set forth in its articles of organization:~~

13 ~~(a) Shall contain either the words "limited liability~~
14 ~~company" or the abbreviation "LLC" as the last words in~~
15 ~~the name of the limited liability company. The words~~
16 ~~"limited" and "company" may be abbreviated to "Ltd."~~
17 ~~and "Co.," respectively.~~

18 ~~(b) May contain the name of one or more members.~~

19 ~~(c) Shall not be a name that the Secretary of State~~
20 ~~determines is likely to mislead the public and shall not be~~
21 ~~the same as, or resemble so closely as to tend to deceive,~~

22 ~~(1) the name of any limited liability company that has~~
23 ~~filed articles of organization pursuant to Section 17050;~~

24 ~~(2) the name of any foreign limited liability company~~
25 ~~registered to do business in this state pursuant to Section~~

26 ~~17451, or (3) any name that is under reservation for~~
27 ~~another domestic limited liability company or foreign~~

28 ~~limited liability company pursuant to Section 17053;~~
29 ~~except that a limited liability company may adopt a name~~

30 ~~that is substantially the same as that of an existing~~
31 ~~domestic limited liability company or foreign limited~~

32 ~~liability company that is registered pursuant to Section~~
33 ~~17451 upon proof of consent by that domestic limited~~



1 ~~liability company or foreign limited liability company and~~
2 ~~a finding by the Secretary of State that under the~~
3 ~~circumstances the public is not likely to be misled.~~

4 ~~(d) Shall not contain the words “bank,” “trust,”~~
5 ~~“trustee,” “incorporated,” “inc.,” “corporation,” or~~
6 ~~“corp.,” and shall not contain the words “insurer” or~~
7 ~~“insurance company” or any other words suggesting that~~
8 ~~it is in the business of issuing policies of insurance and~~
9 ~~assuming insurance risks.~~

10 ~~(e) The use by a limited liability company or a foreign~~
11 ~~limited liability company of a name in violation of this~~
12 ~~section may be enjoined notwithstanding the filing of its~~
13 ~~articles of organization or its registration with the~~
14 ~~Secretary of State.~~

15 *SEC. 2. Section 17052 of the Corporations Code is*
16 *amended to read:*

17 17052. The name of each limited liability company as
18 set forth in its articles of organization:

19 (a) Shall contain either the words “limited liability
20 company” or the abbreviation “LLC” or “L.L.C.” as the
21 last words in the name of the limited liability company.
22 The words “limited” and “company” may be abbreviated
23 to “Ltd.” and “Co.,” respectively.

24 (b) May contain the name of one or more members.

25 (c) Shall not be a name that the Secretary of State
26 determines is likely to mislead the public and shall not be
27 the same as, or resemble so closely as to tend to deceive,

28 (1) the name of any limited liability company that has
29 filed articles of organization pursuant to Section 17050,

30 (2) the name of any foreign limited liability company
31 registered to do business in this state pursuant to Section
32 17451, or (3) any name that is under reservation for
33 another domestic limited liability company or foreign
34 limited liability company pursuant to Section 17053.

35 However, a limited liability company may adopt a name
36 that is substantially the same as that of an existing
37 domestic limited liability company or foreign limited
38 liability company that is registered pursuant to Section
39 17451 upon proof of consent by that domestic limited
40 liability company or foreign limited liability company and



1 a finding by the Secretary of State that, under the
2 circumstances, the public is not likely to be misled.

3 (d) Shall not contain the words “bank,” ~~“insurance,”~~
4 “trust,” “trustee,” “incorporated,” “inc.,” “corporation,”
5 or ~~“corp.”~~ “corp.,” and shall not contain the words
6 “insurer” or “insurance company” or any other words
7 suggesting that it is in the business of issuing policies of
8 insurance and assuming insurance risks.

9 (e) The use by a limited liability company or a foreign
10 limited liability company of a name in violation of this
11 section may be enjoined, notwithstanding the filing of its
12 articles of organization or its registration with the
13 Secretary of State.

14 (f) A limited liability company may record in the office
15 of the county recorder of any county in this state, and
16 county recorders, on request, shall record a certified copy
17 of the limited liability company articles of organization
18 and any exhibits or attachments, or any amendment or
19 correction thereto, that has been filed in the office of the
20 Secretary of State. A foreign limited liability company
21 may record in the office of the county recorder of any
22 county in the state a certified copy of the limited liability
23 company application for registration, certificate of
24 registration, or any amendment thereto, that has been
25 filed in the office of the Secretary of State. The recording
26 shall create a conclusive presumption in favor of any bona
27 fide purchaser or encumbrancer for value of the limited
28 liability company real property located in the county in
29 which the certified copy has been recorded, of the
30 statements contained therein.

31 SEC. 3. Section 1628 of the Insurance Code is
32 amended to read:

33 1628. As used in this chapter, an organization is a
34 partnership, limited liability company, association, or
35 corporation. Where reference is made to a natural person
36 named on an organization license, the reference shall be
37 to a person who is named to exercise the power and
38 perform the duties under an organization license.

39 SEC. 4. Section 1647 of the Insurance Code is
40 amended to read:



1 1647. Only the following natural persons are eligible
2 to be named to exercise the agency or brokerage powers
3 under an organization license:

4 (a) Any general partner or employee of a
5 copartnership.

6 (b) Any member, officer or employee of an
7 association.

8 (c) Any officer or employee of a corporation.

9 (d) Any manager, member, officer, or employee of a
10 limited liability company.

11 SEC. 5. Section 1647.5 is added to the Insurance Code,
12 to read:

13 1647.5. (a) At the time of licensing pursuant to this
14 article, in the case of limited liability companies, and at all
15 times during which those companies ~~shall~~ transact
16 business, every licensed limited liability company ~~shall be~~
17 *is* required to provide security for claims against it as
18 follows:

19 (1) For claims based upon acts, errors, or omissions
20 arising out of the practice of insurance agency ~~or~~
21 ~~brokerage~~, *brokerage, or surplus line brokerage*, a
22 licensed limited liability company providing insurance
23 agency ~~or brokerage~~, *brokerage, or surplus line*
24 *brokerage* services shall comply with one, or pursuant to
25 subdivision (b) some combination, of the following:

26 (A) Maintaining a policy or policies of insurance
27 against liability imposed on or against it by law for
28 damages arising out of claims in an amount for each claim
29 of at least one hundred thousand dollars (\$100,000)
30 multiplied by the number of ~~persons~~ *licensees* rendering
31 professional services on behalf of the company, *with a*
32 *minimum required amount of five hundred thousand*
33 *dollars (\$500,000)*; however, the maximum amount of
34 insurance is not required to exceed ~~three million dollars~~
35 ~~(\$3,000,000)~~ *five million dollars (\$5,000,000)* for claims
36 initially asserted in any one calendar year, less amounts
37 paid in defending, settling, or discharging those claims.

38 (B) Maintaining in trust or bank escrow, cash, bank
39 certificates of deposit, United States Treasury obligations,
40 bank letters of credit, or bonds of insurance companies as



1 security for payment of liabilities imposed by law for
 2 damages arising out of all claims in an amount of at least
 3 one hundred thousand dollars (\$100,000) multiplied by
 4 the number of ~~persons~~ *licensees* rendering professional
 5 services on behalf of the company, *with a minimum*
 6 *required amount of five hundred thousand dollars*
 7 *(\$500,000)*; however, the maximum amount of security is
 8 not required to exceed ~~three million dollars (\$3,000,000)~~
 9 *five million dollars (\$5,000,000)* for claims initially
 10 asserted in any one calendar year, less amounts paid in
 11 defending, settling, or discharging those claims.

12 (b) For purposes of satisfying the security
 13 requirements of this section, a limited liability company
 14 may aggregate the security provided by it pursuant to
 15 subparagraphs (A) and (B) of paragraph (1) of
 16 subdivision (a).

17 (c) At the time of licensing pursuant to this article,
 18 limited liability companies shall file with the
 19 commissioner information, in the manner prescribed by
 20 the commissioner, and accompanied by all
 21 documentation requested by the commissioner,
 22 demonstrating compliance with the financial security
 23 requirements of this section. Limited liability companies
 24 shall also file an annual confirmation with the
 25 commissioner, at a time and in a manner, and with
 26 documentation, prescribed by the commissioner, signed
 27 by an authorized member of the limited liability
 28 company, demonstrating continuing compliance with
 29 the financial security requirements of this section.

30 SEC. 6. Section 1656.2 is added to the Insurance Code,
 31 to read:

32 1656.2. (a) Every application for a license filed by a
 33 limited liability company shall contain the names and
 34 addresses of all members owning 10 percent or more of
 35 the membership interests of the limited liability
 36 company, and of all managers, officers, and directors, if
 37 any, of the limited liability company.

38 (b) Every licensed limited liability company shall file
 39 a written notice with the commissioner of all changes,
 40 except address changes, of its members owning 10



1 percent or more of the membership interests of the
2 limited liability company and of all managers and officers
3 and directors, if any, of the limited liability company.

4 (c) The commissioner may require the application or
5 notice or both to also disclose additional information to
6 determine whether the applicant or licensee is in
7 compliance with Section 1668.5.

8 *SEC. 7. Section 1765.2 of the Insurance Code is*
9 *amended to read:*

10 1765.2. (a) ~~Such~~ A license under this chapter may be
11 issued to an individual, a corporation ~~or a~~, partnership, or
12 *limited liability company*. If issued to a corporation or a
13 partnership, or to an individual who maintains more than
14 one surplus line office in this state, it shall name the
15 natural person or persons located at each surplus line
16 office maintained in this state by the licensee who is or are
17 to be responsible for the proper discharge at each ~~such~~
18 office of all duties placed upon ~~such~~ the licensee acting as
19 a surplus line broker or who transacts ~~or transact~~
20 insurance with the public as distinguished from insurance
21 producers. Each ~~such~~ natural person shall meet all of the
22 requirements for ~~such~~ the license and if the licensee is a
23 corporation, shall be an officer or employee thereof, or if
24 a partnership, a partner or employee thereof.

25 (b) Every application for a license filed by a
26 corporation *or a limited liability company* shall contain
27 the names and addresses of all stockholders owning 10
28 percent or more of the corporation's stock, and of all
29 officers and directors of the corporation. Every ~~such~~
30 licensed corporation shall file a written notice with the
31 commissioner of all changes, except address changes, of
32 its stockholders who own 10 percent or more of the
33 corporation's stock and of all officers and directors of the
34 corporation.

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