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CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 393

Introduced by Assembly Member Scott
(Coauthor: Senator Figueroa)

February 11, 1999

An act to amend Sections 700, 1631, ~~1634, and 1635~~ 1635, and 1676 of, and to add ~~Article 16.5 (commencing with Section 1758.7)~~ Sections 1625.5, 1701, and 1751.8 to, and to add, Article 16.6 (commencing with Section 1758.8); and Article 16.7 (commencing with Section 1758.9) to, Chapter 5 of Part 2 of Division 1 of, the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 393, as amended, Scott. Insurance: production agencies.

(1) Existing law prohibits an insurer from transacting insurance in the state unless the insurer has procured a certificate of authority from the Insurance Commissioner. Existing law requires an insurer that has procured a certificate of authority to continue to comply with the requirements as to its business set forth in the Insurance Code and in other laws.

This bill would provide that these provisions dealing with the authority of an insurer to transact insurance shall not be

interpreted to exempt an insurer from compliance with existing law governing the licensure and operation of production agencies, with regard to employees or contractors who solicit, negotiate, or effect insurance.

(2) Existing law generally prohibits a person from acting as an insurance agent, life agent, insurance broker, or insurance solicitor unless that person holds a valid license issued by the Insurance Commissioner authorizing the person to act in that capacity. Existing law makes it a crime to act in a capacity for which a license is required without a valid license.

This bill would instead prohibit a person from acting in one of those capacities, or from soliciting, ~~selling~~, negotiating, or effecting contracts of insurance, unless the person holds a valid license authorizing the person to act in that capacity, *subject to certain exceptions*. By expanding the scope of activities for which a valid license is required, this bill would expand the scope of an existing crime, thereby imposing a state-mandated local program.

~~(3) Existing law provides that, notwithstanding the prohibition described in (2) above, no license is required for a person to act in certain specified capacities, including as an employee of a creditor who secures and forwards information for the purpose of obtaining certain types of insurance, for enrolling individuals in certain types of insurance plans, or for issuing certificates of insurance thereunder. However, this exception to licensure applies only if no commission is paid to the employee for those services.~~

~~This bill would instead provide that this exception to licensure applies only if no commission or other valuable consideration is paid, directly or indirectly, by the insurer, creditor, retailer, or other person to the employee for those services.~~

~~(4)~~

~~(3) Existing law also provides that, notwithstanding the prohibition described in (2) above, no license is required for a person to act in certain additional specified capacities, including as a salaried representative of a reciprocal or interinsurance exchange or of its attorney in fact, or as an officer or salaried representative of a life insurer, if, among other requirements, his or her activities do not include~~



effecting, soliciting, or negotiating insurance, subject to certain exceptions.

A license is also not required to engage in certain specified activities, including ~~employment which does not include the solicitation, negotiation, or effecting of contracts of insurance and the signing of policies or other evidences of insurance, or employment by an insurer at its home or branch office which, among other things, does not include the solicitation or negotiation of insurance.~~

However, these and the other enumerated exceptions to licensure apply only if no commission is paid or allowed, directly or indirectly, for acting in those capacities or engaging in those activities.

~~This bill would instead provide for an exception to the general licensure requirement for a salaried representative of a reciprocal or interinsurance exchange or of its attorney in fact, which does not include selling, soliciting, negotiating, or effecting contracts of insurance, and for an exception for an officer or salaried representative of a life insurer, if that person's activities additionally do not include selling insurance, subject to certain exceptions.~~

This bill would also provide for an exception to licensure ~~for employment which additionally does not include the sale of contracts of insurance, and for employment by an insurer at its home or branch office which, among other things, does not additionally include the sale or effecting of insurance.~~

This bill would provide that these and the other additional enumerated exceptions to licensure apply only if no commission is paid or allowed, directly or indirectly, by the insurer, creditor, retailer, or other person for acting in those capacities or engaging in those activities.

~~(5)~~

(4) This bill would establish a personal lines agent license for persons who sell automobile, residential property, and umbrella insurance, as specified. *This bill would provide that applicants for licensure for fire and casualty, personal lines, and life insurance who have passed an examination for one or more of those licenses may act as a licensee for a period not exceeding 90 days pending receipt of a permanent license, as specified. This bill would require the Department of*



Insurance to investigate and implement a system, and report to the Legislature in regard to the system, permitting license fees to be paid electronically by employers on behalf of their employees, as specified. The bill would also require the department to investigate and report to the Legislature on the feasibility of taking licensing examinations electronically at remote locations. This bill would also establish a rental car agent license for rental car companies or their franchisees who sell specified types of insurance in connection with, and incidental to, the rental of vehicles, and a credit insurance agent license for organizations that sell specific types of insurance in connection with, and incidental to, a loan or extension of credit.

By adding these new production agency licensure categories, this bill would expand the scope of activities for which a valid license is required, thereby expanding the scope of an existing crime and imposing a state-mandated local program. In addition, this bill would include within the rental car agent and the credit insurance agent provisions, a requirement that insurers, whose insurance products those agents would sell, provide certain certifications under penalty of perjury in connection with the licensure of those agents. By expanding the scope of the crime of perjury, this bill would impose a state-mandated local program.

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.

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

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

1 SECTION 1. Section 700 of the Insurance Code is
 2 amended to read:
 3 700. (a) A person shall not transact any class of
 4 insurance business in this state without first being
 5 admitted for that class. Admission is secured by procuring



1 a certificate of authority from the commissioner. The
2 certificate shall not be granted until the applicant
3 conforms to the requirements of this code and of the laws
4 of this state prerequisite to its issue.

5 (b) The unlawful transaction of insurance business in
6 this state in willful violation of the requirement for a
7 certificate of authority is a public offense punishable by
8 imprisonment in the state prison, or in a county jail not
9 exceeding one year, or by fine not exceeding one
10 hundred thousand dollars (\$100,000), or by both, and shall
11 be enjoined by a court of competent jurisdiction on
12 petition of the commissioner.

13 (c) After the issuance of a certificate of authority, the
14 holder shall continue to comply with the requirements as
15 to its business set forth in this code and in the other laws
16 of this state. Nothing in this section shall be interpreted
17 to exempt an insurer from compliance with Chapter 5
18 (commencing with Section 1631), with regard to
19 employees or contractors who solicit, negotiate, or effect
20 insurance.

21 (d) Where a hearing is held under this section the
22 proceedings shall be conducted in accordance with
23 Chapter 5 (commencing with Section 11500) of Part 1 of
24 Division 3 of Title 2 of the Government Code, and the
25 commissioner shall have all the powers granted therein.

26 (e) The commissioner shall either issue or deny an
27 application for a certificate of authority within 180
28 calendar days after the date of the application.

29 (f) The commissioner and his or her authorized
30 representative shall be prohibited from seeking a waiver
31 to extend the 180 calendar day period specified in
32 subdivision (e), nor shall the applicant be permitted to
33 waive that period.

34 SEC. 2. *Section 1625.5 is added to the Insurance Code*
35 *to read:*

36 *1625.5. (a) A personal lines licensee is a natural*
37 *person authorized by and on behalf of an insurer to*
38 *transact automobile insurance, as defined in Section 660,*
39 *residential property insurance, as defined in Section*
40 *10087, including earthquake insurance, and umbrella*



1 insurance providing coverage when written over one or
 2 more underlying automobile or residential property
 3 insurance policies.

4 (b) A license under this section shall be applied for and
 5 renewed, following successful completion of a qualifying
 6 examination of this code, ethics, and products sold under
 7 the license, in the same manner as is provided in this
 8 chapter for a licensee to act as a fire and casualty
 9 broker-agent, except for the following:

10 (1) A licensee under this section need only complete
 11 20 hours of continuing education during a license term,
 12 as defined in Section 1630.

13 (2) A licensee under this section need only complete
 14 continuing education courses on the lines of insurance
 15 authorized by this license so long as that training also
 16 includes courses on ethics and on this code. Prelicense
 17 and continuing education curriculum for the personal
 18 lines license shall be developed and regulated in the same
 19 manner as provided in Article 13 (commencing with
 20 Section 1749).

21 (3) Examination and licensure fees under this section
 22 shall be the same as those applicable to fire and casualty
 23 broker-agents under this chapter.

24 (4) The commissioner may adopt rules necessary for
 25 the convenient administration of the provisions of this
 26 section.

27 SEC. 3. Section 1631 of the Insurance Code is
 28 amended to read:

29 1631. Notwithstanding any other provisions of this
 30 code to the contrary, unless exempt by the provisions of
 31 this article, a person shall not solicit, ~~sell~~, negotiate, or
 32 effect contracts of insurance, or act in any of the
 33 capacities defined in Article 1 (commencing with Section
 34 1621) unless the person holds a valid license from the
 35 commissioner authorizing the person to act in that
 36 capacity. *This section shall not apply to persons licensed*
 37 *pursuant to Section 1625.5, Article 15 (commencing with*
 38 *Section 1752), Article 15.5 (commencing with Section*
 39 *1757.1), or Article 16 (commencing with Section 1758.1).*



1 ~~SEC. 3. Section 1634 of the Insurance Code is~~
2 ~~amended to read:~~

3 ~~1634. No license is required under this chapter for a~~
4 ~~person to act in any of the following capacities:~~

5 ~~(a) As a full-time salaried employee of a title insurer,~~
6 ~~controlled escrow company or an underwritten title~~
7 ~~company.~~

8 ~~(b) As a salaried solicitor or agent of a mortgage~~
9 ~~insurer or mortgage guaranty insurer provided no part of~~
10 ~~the compensation of that person is on a commission basis.~~

11 ~~(c) As the attorney in fact of a reciprocal or~~
12 ~~interinsurance exchange.~~

13 ~~(d) As a life and disability insurance analyst.~~

14 ~~(e) As a surplus line broker or special lines surplus line~~
15 ~~broker.~~

16 ~~(f) As a bail agent, bail solicitor or bail permittee.~~

17 ~~(g) As an employee, not paid on a commission basis, of~~
18 ~~a home protection company.~~

19 ~~(h) As an employee of a creditor who secures and~~
20 ~~forwards information for the purpose of obtaining group~~
21 ~~credit life, credit disability, or involuntary~~
22 ~~unemployment insurance, or for enrolling individuals in~~
23 ~~a group credit life, credit disability, or involuntary~~
24 ~~unemployment insurance plan or issuing certificates of~~
25 ~~insurance thereunder where no commission or other~~
26 ~~valuable consideration is paid, directly or indirectly, by~~
27 ~~the insurer, creditor, retailer, or other person to the~~
28 ~~employee for those services.~~

29 SEC. 4. Section 1635 of the Insurance Code is
30 amended to read:

31 1635. No license is required under the provisions of
32 this chapter for a person to act in the following capacities
33 or to engage in the following activities, providing no
34 commission is paid or allowed, directly or indirectly, by
35 the insurer, creditor, retailer, or other person for acting
36 in those capacities or engaging in those activities:

37 (a) The business of examining, certifying or
38 abstracting titles to real property.



1 (b) The solicitation for membership in a fraternal
2 benefit society and other activities to the extent and as
3 described in Sections 11013 and 11102 of this code.

4 (c) As a salaried representative of a reciprocal or
5 interinsurance exchange or of its attorney in fact, ~~which~~
6 ~~does not include selling, soliciting, negotiating, or~~
7 ~~effecting contracts of insurance.~~

8 (d) Employment which does not include the ~~sale,~~
9 solicitation, negotiation, or effecting of contracts of
10 insurance and the signing of policies or other evidences
11 of insurance.

12 (e) As an officer of an insurer or a salaried traveling
13 employee of the type commonly known as a special agent
14 or as an agency supervisor, while performing duties and
15 exercising functions that are commonly performed by a
16 special agent or agency supervisor, if the person engaging
17 in the activity does not do either of the following:

18 (1) Effect insurance.

19 (2) Solicit or negotiate insurance except as a part of
20 and in connection with the business of a fire and casualty
21 broker-agent or life agent licensed under this chapter.

22 (f) As an officer or salaried representative of a life
23 insurer if his or her activities are limited to direct
24 technical advice and assistance to a properly licensed
25 person and his or her activities do not include effecting,
26 ~~selling,~~ soliciting, or negotiating insurance except as a
27 part of and in connection with the business of a fire and
28 casualty broker-agent or life agent licensed under this
29 chapter.

30 (g) Employment by an insurer at its home or branch
31 office which does not include the ~~sale,~~ solicitation,
32 negotiation, or effecting *of contracts* of insurance, and
33 which may as part thereof include the signing of policies
34 or other evidences of insurance.

35 (h) The completion or delivery of a declaration or
36 certificate of coverage under a running inland marine
37 insurance contract evidencing coverage thereunder and
38 including only those negotiations as are necessary to the
39 completion or delivery if the person performing those



1 acts or his or her employer has an insurable interest in the
2 risk covered by the certificate or declaration.

3 (i) As an employee of a licensed fire and casualty
4 broker-agent, whose employment is one or more of the
5 following:

6 (1) That of a regularly salaried administrative or
7 clerical employee who devotes substantially all of his or
8 her services to activities other than the solicitation,
9 *negotiation, or effecting of contracts* of insurance from
10 the insuring public.

11 (2) That of a salesperson who devotes substantially all
12 of his or her activities to selling merchandise and whose
13 solicitation of insurance is limited only to the quoting of
14 a premium for insurance to be included in the purchase
15 price covering the interest retained in the merchandise
16 by the seller.

17 (j) The solicitation, negotiation or effectuation of
18 home protection contracts by a person licensed pursuant
19 to Part 1 (commencing with Section 10000) of Division 4
20 of the Business and Professions Code in connection with
21 his or her licensed function authorized by Section 10131
22 or 10131.6 of the Business and Professions Code. Neither
23 the receipt of a payment permitted by Section 12760 nor
24 the receipt of a benefit permitted by Section 12765 shall
25 disqualify the recipient from the licensing exemption
26 provided by this chapter.

27 ~~SEC. 5. Article 16.5 (commencing with Section~~
28 ~~1758.7) is added to Chapter 5 of Part 2 of Division 1 of the~~
29 ~~Insurance Code, to read:~~

30
31 ~~Article 16.5. Personal Lines Agents~~

32
33 ~~1758.7. A limited license as a personal lines agent may~~
34 ~~be issued to a natural person, authorizing that person to~~
35 ~~sell automobile insurance, as defined in Section 116,~~
36 ~~residential property insurance, as defined in Section~~
37 ~~10087, and umbrella insurance providing coverage when~~
38 ~~written over one or more underlying automobile or~~
39 ~~residential property insurance policies.~~



~~1 1758.71. A license under this article shall be applied
2 for and renewed, following the successful completion of
3 a qualifying examination on this code, ethics, and
4 products sold under the license, in the same manner as is
5 provided in this chapter for a licensee to act as a fire and
6 casualty broker agent, except for the following:~~

~~7 (a) A licensee under this article need only complete 20
8 hours of continuing education during a license term, as
9 defined in Section 1630.~~

~~10 (b) A licensee under this article who is an employee of
11 an insurer may receive continuing education credit for
12 training received by the licensee in personal lines
13 products sold by the employer, if that training also
14 includes training on ethics and on this code.~~

~~15 1758.72. An applicant for a license under this article
16 shall be subject to a background check that complies with
17 Section 1033 of the federal Violent Crime Control and
18 Law Enforcement Act of 1994, which prohibits a person
19 with a felony conviction for a crime involving dishonesty
20 or breach of trust from working in the insurance industry.~~

~~21 1758.73. Examination and licensure fees under this
22 article shall be the same as those applicable to fire and
23 casualty broker agents under this chapter.~~

~~24 1758.74. The commissioner may adopt rules necessary
25 for the convenient administration of the provisions of this
26 article.~~

~~27 SEC. 5. Section 1676 of the Insurance Code is
28 amended to read:~~

~~29 1676. (a) Except as set forth in Sections 1675 and
30 1679, the commissioner shall not issue a permanent
31 license pursuant to this chapter to an applicant therefor
32 unless such applicant has within the 12-month period next
33 preceding the date of issue of the license taken and passed
34 the qualifying examination for such license.~~

~~35 (b) An applicant for a personal lines license pursuant
36 to Section 1625.5 who has been continually employed by
37 an insurer or agent or broker in a sales position for a least
38 two years prior to the effective date of this act shall not
39 be required to take an examination to obtain a license
40 when the employer certifies to the satisfaction of the~~



1 commissioner that the applicant has the requisite
2 knowledge of the lines of insurance authorized by the
3 license, ethics, and the Insurance Code.

4 SEC. 6. Section 1701 is added to the Insurance Code
5 to read:

6 1701. An applicant for a license under 1625, 1625.5, or
7 1626 who has passed the examination for one or more of
8 those licenses may act as a licensee for a period not to
9 exceed 90 days where the person does so under the direct
10 supervision and control of a licensee and the employee is
11 responsible for their conduct in this capacity, pending
12 receipt of the permanent license.

13 SEC. 7. Section 1751.8 is added to the Insurance Code
14 to read:

15 1751.8. The Department of Insurance shall
16 investigate and implement a system, and report to the
17 Legislature by _____ regarding the system, where
18 license fees can be paid electronically to allow employers
19 who pay the license fees for their employees to optionally
20 do so annually, or at fixed intervals, rather than on the
21 anniversary date of each individual license. The
22 department shall investigate and report to the
23 Legislature by _____ on the feasibility of
24 implementing computer-based license examinations that
25 can be taken at remote locations.

26 ~~SEC. 6.~~

27 SEC. 8. Article 16.6 (commencing with Section
28 1758.8) is added to Chapter 5 of Part 2 of Division 1 of the
29 Insurance Code, to read:

30

31 Article 16.6. Rental Car Agents

32

33 1758.8. The commissioner may issue to a rental car
34 company, or to a franchisee of a rental car company, that
35 has complied with the requirements of this article, a
36 license that authorizes the rental car company or the
37 franchisee of a rental car company to act as a rental car
38 agent to offer or sell those types of insurance specified in
39 Section 1758.85, in connection with and incidental to



1 rental agreements, on behalf of any insurer authorized to
2 write those types of insurance in this state.

3 1758.81. (a) An applicant for a rental car agent
4 license under this article shall file both of the following
5 documents with the commissioner:

6 (1) A written application for licensure, signed by an
7 officer of the applicant, in the form prescribed by the
8 commissioner.

9 (2) A certificate by the insurer that is to be named in
10 the rental car agent license, stating that the insurer has
11 satisfied itself that the named applicant is trustworthy
12 and competent to act as its insurance agent limited to this
13 purpose and that the insurer will appoint the applicant to
14 act as its agent in reference to doing the kind or kinds of
15 insurance that are permitted by this article, if the rental
16 car agent license applied for is issued by the
17 commissioner. The certification shall be subscribed by an
18 officer or managing agent of the insurer and affirmed as
19 true under penalty of perjury.

20 (b) Notwithstanding any other provision of law to the
21 contrary, Sections 1667, 1668, 1668.5, 1669, 1670, and 1739
22 apply to any application for or issuance of a license, or any
23 application for or approval of an endorsee, pursuant to
24 this article.

25 1758.82. (a) An employee of a rental car company
26 that has been issued a rental car agent license pursuant
27 to this article may be an endorsee on the license if all of
28 the following conditions have been met:

29 (1) The employee is 18 years of age or older.

30 (2) The employee submits an application to the
31 department that includes a signed affidavit, in a form
32 prescribed by the commissioner, stating that the
33 applicant has read the rental vehicle insurance material
34 provided ~~by~~ to the commissioner with the application and
35 that the applicant has received from the rental car
36 company ~~a minimum of three hours of~~ training in, and is
37 knowledgeable about, the rental vehicle insurance
38 products to be sold, ethics, and market ~~conduct issues~~
39 *practices* relative to the rental vehicle insurance products
40 to be sold.



1 (3) The employee *or the employer* submits an
2 application fee of _____ dollars (\$_____). The fee
3 for renewal shall be _____ dollars (\$_____)
4 year thereafter.

5 (b) The rental car company shall provide ~~a minimum~~
6 ~~of three hours of~~ training to each endorsee about the
7 rental vehicle insurance products to be sold, ethics, and
8 the market conduct issues relative to the rental vehicle
9 insurance products to be sold, and shall submit ~~quarterly~~
10 *annually* to the department the names of endorsees and
11 a statement of compliance with this article. Training
12 materials used by the rental car company to train
13 endorsees shall be submitted to the department at the
14 time the rental car company applies for a license under
15 this article, and each year thereafter when the license is
16 renewed. Any changes to previously submitted training
17 materials shall be submitted to the department with the
18 changes highlighted 30 days prior to their use by the
19 licensee. A licensee is not required to have prior approval
20 from the department before using training materials
21 submitted pursuant to this subdivision.

22 (c) The rental car company shall periodically retrain
23 its endorsees ~~pursuant to a schedule submitted and~~
24 ~~approved by the commissioner. The retraining shall be no~~
25 ~~less than once annually or whenever an application is~~
26 ~~approved for a material alteration in training materials or~~
27 ~~there is a change in insurance products sold pursuant to~~
28 ~~this article.~~

29 1758.83. (a) The manager at each location of a rental
30 car company or a franchisee of a rental car company
31 licensed pursuant to this article, *or a supervisor of the*
32 *company's endorsees at each location or region* shall be
33 listed as an endorsee on the company's license and shall
34 be responsible for the training and supervision of each
35 additional endorsee at that location.

36 (b) Any salaried employee of a rental car agent who
37 complies with the requirements of Section 1758.82 may
38 act on behalf and under the supervision of the rental car
39 agent in matters relating to the conduct of business under
40 that agent's license. The conduct of an employee or agent



1 of a rental car agent acting within the scope of
2 employment or agency shall be deemed the conduct of
3 the rental car agent for purposes of this article.

4 1758.84. (a) If a licensee violates any provision of this
5 article, the commissioner may do either of the following:

6 (1) After notice and hearing, revoke or suspend the
7 licensee’s license.

8 (2) After notice and hearing, impose other penalties,
9 including suspending the transaction of insurance at
10 specific rental locations where violations of this article
11 have occurred, or imposing fines on individual endorsees
12 or the manager *or supervisor* at each location responsible
13 for the supervision and conduct of each endorsee, that the
14 commissioner deems to be necessary or convenient to
15 carry out the purpose of this article.

16 (b) If any person sells insurance in connection with or
17 incidental to rental car agreements or holds himself or
18 herself or an organization out as a rental car agent
19 without obtaining the license required by this article, the
20 commissioner may issue a cease and desist order pursuant
21 to Section 12921.8.

22 (c) Notwithstanding any other provision of law to the
23 contrary, the provisions of Section 1748.5 are applicable
24 to both the rental car company or franchisee issued a
25 license pursuant to this article and any endorsee to that
26 license.

27 1758.85. A rental car company or franchisee licensed
28 under this article may act as a rental car agent for an
29 authorized insurer only in connection with the rental of
30 vehicles and only with respect to the following kinds of
31 insurance:

32 (a) Personal accident insurance for renters and other
33 rental vehicle occupants, for accidental death or
34 dismemberment, and for medical expenses resulting
35 from an accident that occurs with the rental vehicle
36 during the rental period.

37 (b) Liability insurance, which may include uninsured
38 motorist coverage, whether offered separately or in
39 combination with other liability insurance, that provides
40 coverage to the renters and to other authorized drivers



1 of a rental vehicle and is nonduplicative of any standard
2 liability coverage or self-insurance limits provided by the
3 rental company in its rental agreement, for liability
4 arising from the negligent operation of the rental vehicle
5 during the rental period.

6 (c) Personal effects insurance that provides coverage
7 to renters and other vehicle occupants for loss of, or
8 damage to, personal effects in the rental vehicle during
9 the rental period.

10 (d) ~~Vehicle breakdown insurance~~ *Roadside assistance*
11 *and emergency sickness insurance.*

12 1758.86. A rental car agent shall not sell insurance
13 pursuant to this article unless all of the following
14 conditions are satisfied:

15 (a) The rental period of the rental agreement does not
16 exceed 30 consecutive days.

17 (b) The rental car agent provides brochures or other
18 written materials to the prospective renter that do all of
19 the following:

20 (1) Summarize the material terms and conditions of
21 coverage offered to renters, including the identity of the
22 insurer.

23 (2) Describe the process for filing a claim, including a
24 toll-free telephone number to report a claim.

25 (3) Disclose any additional information on the price,
26 benefits, exclusions, conditions, or other limitations of
27 those policies that the commissioner may by rule
28 prescribe.

29 (c) The rental car agent makes all of the following
30 disclosures to the renter, which shall be acknowledged in
31 writing by the renter:

32 (1) That the purchase by the renter of the kinds of
33 insurance prescribed in this article is not required in
34 order to rent a vehicle.

35 (2) That the insurance policies offered by the rental
36 car agent may provide a duplication of coverage already
37 provided by a renter's personal automobile insurance
38 policy or by another source of coverage.



1 (3) That the endorsee on the rental car agent's license
2 is not qualified or authorized to evaluate the adequacy of
3 the purchaser's existing insurance coverages.

4 (d) Evidence of coverage is stated on the face of the
5 rental agreement or evidence of coverages provided to
6 every renter who elects to purchase that coverage is
7 indicated to the renter.

8 (e) Costs for the insurance are separately itemized in
9 the rental agreement.

10 (f) The insurance is provided under a group or master
11 policy issued to the rental car company by an insurer
12 authorized to transact the applicable kinds or types of
13 insurance in this state.

14 1758.87. A rental car agent shall not do any of the
15 following:

16 (a) Offer to sell insurance except in conjunction with,
17 and incidental to, authorized rental agreements.

18 (b) Advertise, represent, or otherwise portray itself or
19 its employees, agents, or endorsees as licensed insurers,
20 insurance agents, or insurance brokers.

21 (c) Pay any person any compensation, fee, or
22 commission dependent on the placement of insurance
23 under the agent's license. Nothing in this subdivision shall
24 prohibit production payments or incentive payments to
25 an endorsee that are not dependent solely on the sale of
26 insurance *or a marketing fee to a licensed rental car*
27 *company for the sale of insurance products.*

28 1758.88. A rental car company, or a franchisee of a
29 rental car company that has been issued a license under
30 this article, shall prominently display its license number
31 on brochures and information sheets required under this
32 article and on any evidence of insurance.

33 1758.89. Any insurer that provides insurance to be
34 sold by a rental car company or franchisee of a rental car
35 company under this article shall file a copy of the policy
36 with the commissioner, who shall make that policy
37 available to the public.

38 1758.891. As used in this article, the following
39 definitions have the following meanings:



1 (a) "Rental vehicle" or "vehicle" means a motor
2 vehicle operated by a driver who is not required to
3 possess a commercial drivers license to operate the motor
4 vehicle and the motor vehicle is either of the following:

5 (1) A private passenger motor vehicle, including a
6 passenger van, minivan, or sports utility vehicle.

7 (2) A cargo vehicle, including a cargo van, pickup
8 truck, or truck with a gross vehicle weight of less than
9 26,000 pounds.

10 (b) "Renter" means any person who obtains the use of
11 a vehicle from a rental company under the terms of a
12 rental agreement.

13 (c) "Rental car company" means any person in the
14 business of renting vehicles to the public.

15 (d) "Rental agreement" means any written
16 agreement setting forth the terms and conditions
17 governing the use of a vehicle provided by the rental car
18 company.

19 ~~SEC. 7.~~

20 SEC. 9. Article 16.7 (commencing with Section
21 1758.9) is added to Chapter 5 of Part 2 of Division 1 of the
22 Insurance Code, to read:

23

24

Article 16.7. Credit Insurance Agents

25

26 1758.9. No person shall sell or solicit any form of credit
27 insurance in this state, ~~unless it is~~ and receive a
28 commission for their efforts, unless that person is licensed
29 as an insurance agent or broker pursuant to Article 3
30 (commencing with Section 1631) or is licensed as a credit
31 insurance agent or endorsee under this article.

32 1758.91. The commissioner may issue to an applicant
33 that has complied with the requirements of this article, a
34 credit insurance agent license to offer or sell those types
35 of insurance specified in Section 1758.96 in connection
36 with and incidental to a loan or extension of credit, on
37 behalf of any insurer authorized to write those types of
38 insurance in this state.



1 1758.92. (a) An applicant for a credit insurance agent
2 license under this article shall file both of the following
3 documents with the commissioner:

4 (1) A written application for licensure signed by an
5 officer of the applicant, in the form prescribed by the
6 commissioner.

7 (2) A certificate by the insurer that is to be named in
8 the credit insurance agent license, stating that the insurer
9 has satisfied itself that the named applicant is trustworthy
10 and competent to act as its insurance agent limited to this
11 purpose and that the insurer will appoint the applicant to
12 act as its agent in reference to doing the kind or kinds of
13 insurance that are permitted by this article, if the credit
14 insurance agent license applied for is issued by the
15 commissioner. The certification shall be subscribed by an
16 officer or managing agent of the insurer and affirmed as
17 true under penalty of perjury.

18 (b) Notwithstanding any other provision of law to the
19 contrary, the provisions set forth in Sections 1667, 1668,
20 1668.5, 1669, 1670, and 1739 apply to any application for or
21 issuance of a license, or any application for or approval of
22 an endorsee, pursuant to this article.

23 1758.93. (a) An employee of an organization that has
24 been issued a credit insurance agent license pursuant to
25 this article may be an endorsee on the license if all of the
26 following conditions have been met:

27 (1) The employee is 18 years of age or older.

28 (2) The employee submits an application to the
29 department that includes a signed affidavit, in a form
30 prescribed by the commissioner, stating the applicant has
31 read the credit insurance material provided ~~by~~ to the
32 commissioner with the application and that the applicant
33 has received from the organization ~~a minimum of three~~
34 ~~hours~~ of training in, and is knowledgeable about, the
35 credit insurance products to be sold, *ethics, and market*
36 *practices*.

37 (3) The employee submits an application fee of
38 _____ dollars (\$_____). The fee for renewal shall be
39 _____ dollars (\$_____) each year thereafter.



1 (b) The organization shall provide a minimum of
2 three hours of training to each endorsee about the credit
3 insurance products to be sold, and shall submit ~~quarterly~~
4 *annually* to the department the names of endorsees and
5 a statement of compliance with this article. Training
6 materials used by the organization to train endorsees shall
7 be submitted to the department at the time the
8 organization applies for its credit insurance agent license,
9 and each year thereafter when that license is renewed.
10 Any changes to previously submitted training materials
11 shall be submitted to the department with the changes
12 highlighted 30 days prior to their use by the licensee. A
13 licensee is not required to have prior approval from the
14 department before using training materials submitted
15 pursuant to this subdivision.

16 (c) The credit insurance agent shall periodically
17 retrain its endorsees ~~pursuant to a schedule submitted~~
18 ~~and approved by the commissioner. The retraining shall~~
19 ~~be no less than once annually or whenever an application~~
20 ~~is approved for a material alteration in training materials~~
21 ~~or there is a change in insurance products sold pursuant~~
22 ~~to this article..~~

23 1758.94. (a) The manager at each business location of
24 an organization licensed as a credit insurance agent, shall
25 be listed as an endorsee on the organization's license and
26 shall be responsible for the training and supervision of
27 each additional endorsee at that location.

28 (b) Any salaried employee of a credit insurance agent
29 who complies with the requirements of Section 1758.93
30 may act on behalf and under the supervision of the credit
31 insurance agent in matters relating to the conduct of
32 business under that agent's license. The conduct of an
33 employee or agent of a credit insurance agent acting
34 within the scope of employment or agency shall be
35 deemed the conduct of the credit insurance agent for
36 purposes of this article.

37 1758.95. (a) If a licensee violates any provision of this
38 article, the commissioner may do either of the following:

39 (1) After notice and hearing, revoke or suspend the
40 licensee's license.



1 (2) After notice and hearing, impose other penalties,
 2 including suspending the transaction of insurance at
 3 specific business locations where violations of this article
 4 have occurred, or imposing fines on individual endorsees
 5 or the manager at each location responsible for the
 6 supervision and conduct of each endorsee employed by
 7 the license, that the commissioner deems to be necessary
 8 or convenient to carry out the purpose of this section.

9 (b) If any person sells insurance in connection with or
 10 incidental to a loan or other extension of credit or holds
 11 himself or herself or the organization out as a credit
 12 insurance agent without obtaining the license required
 13 by this article, the commissioner may issue a cease and
 14 desist order pursuant to Section 12921.8.

15 (c) Notwithstanding any other provision of law to the
 16 contrary, the provisions of Section 1748.5 are applicable
 17 to both the organization issued a license pursuant to this
 18 article and any endorsee to that license.

19 1758.96. An organization licensed pursuant to this
 20 article may act as a credit insurance agent for an
 21 authorized insurer only with respect to the following
 22 kinds of insurance:

- 23 (a) Credit life insurance.
- 24 (b) Credit disability insurance.
- 25 (c) Credit involuntary unemployment insurance or
- 26 credit loss-of-income insurance.
- 27 (d) Credit property insurance.
- 28 (e) Debtor group insurance.

29 1758.97. A credit insurance agent shall not sell or offer
 30 to sell insurance pursuant to this article unless all of the
 31 following conditions are satisfied:

32 (a) The insurance is offered in connection with a loan
 33 or extension of credit that does not exceed _____
 34 dollars (\$_____).

35 (b) The credit insurance agent provides brochures or
 36 other written materials to the prospective purchaser that
 37 do all of the following:

- 38 (1) Summarize the material terms and conditions of
- 39 coverage offered, including the identity of the insurer.



1 (2) Describe the process for filing a claim, including a
2 toll-free telephone number to report a claim.

3 (3) Disclose any additional information on the price,
4 benefits, exclusions, conditions, or other limitations of
5 those policies that the commissioner may by rule
6 prescribe.

7 (c) The credit insurance agent makes all of the
8 following disclosures, which shall be acknowledged in
9 writing by the purchaser:

10 (1) That the purchase of the kinds of insurance
11 prescribed in this article is not required in order to secure
12 the loan or an extension of credit.

13 (2) That the insurance policies offered by the credit
14 insurance agent may provide a duplication of coverage
15 already provided by a purchaser's other personal
16 insurance policies or by another source of coverage.

17 (3) That the endorsee is not qualified or authorized to
18 evaluate the adequacy of the purchaser's existing
19 coverages.

20 (d) Evidence of coverage is provided to every person
21 who elects to purchase that coverage.

22 (e) Costs for the insurance are separately itemized in
23 any loan, credit, or retail agreement.

24 (f) The insurance is provided under a group or master
25 policy issued to the organization licensed as a credit
26 insurance agent by an insurer authorized to transact the
27 applicable kinds or types of insurance in this state.

28 1758.98. ~~A~~ *Under the authority of the credit insurance*
29 *agent license, a credit insurance agent shall not do any of*
30 *the following:*

31 (a) Offer to sell insurance except in conjunction with,
32 and incidental to, a loan or extension of credit.

33 (b) Advertise, represent, or otherwise portray itself or
34 its employes, agents, or endorsees as licensed insurers,
35 insurance agents, or insurance brokers.

36 (c) Pay any *unlicensed* person any compensation, fee,
37 or commission dependent on the placement of insurance
38 under the agent's license. Nothing in this subdivision shall
39 prohibit production payments or incentive payments to



1 an endorsee ~~that are not dependent solely on the sale of~~
2 ~~insurance.~~

3 1758.99. An organization licensed as a credit
4 insurance agent shall prominently display its license
5 number on brochures and information sheets required by
6 this article and on any evidence of insurance.

7 1758.991. Any insurer that provides insurance to be
8 sold by an organization licensed as a credit insurance
9 agent shall file a copy of the policy with the commissioner,
10 who shall make that policy available to the public.

11 1758.992. As used in this article, the following
12 definitions have the following meanings:

13 (a) "Enrollment" means the process of soliciting or
14 accepting enrollments or applications from a debtor
15 under a credit insurance policy, which includes informing
16 the debtor of the availability of coverage, calculating the
17 insurance charge, preparing and delivering the
18 certificate of insurance or notice of proposed insurance,
19 answering questions regarding the coverage, or
20 otherwise assisting the debtor in making an informed
21 decision whether or not to elect to purchase credit
22 insurance.

23 (b) "Creditor" means a lender of money or a vendor
24 or lessor of goods, services, property, rights, or privileges,
25 for which payment is arranged through a credit
26 transaction, or any successor to the right, title, or interest
27 of that lender, vendor, or lessor, and any affiliate,
28 associate, subsidiary, subcontractor, director, officer, or
29 employee of any of them or any other person in any way
30 associated with any of them.

31 (c) "Credit insurance agent license" means an agent
32 license issued to an organization for the enrollment and
33 sale of credit insurance.

34 (d) "Credit insurance" includes credit life insurance,
35 credit disability insurance, credit involuntary
36 unemployment insurance or credit loss-of-income
37 insurance, credit property insurance, debtor group
38 insurance, and any similar insurance written on a group
39 basis to provide coverage in connection with a credit
40 transaction where the creditor is named, designated, or



1 receives benefits as the named insured or the primary
2 beneficiary.

3 (e) “Credit life insurance” and “credit disability
4 insurance” have the same meanings as defined in Section
5 779.2.

6 (f) “Credit involuntary unemployment insurance” or
7 “credit loss-of-income insurance” means insurance issued
8 to provide indemnity for payments becoming due on a
9 specific loan or other credit transaction while the debtor
10 is involuntarily unemployed, as defined in the policy.

11 (g) “Credit property insurance” means insurance that
12 provides coverage (1) on personal property pledged or
13 offered as collateral for securing a personal or consumer
14 loan, or (2) on personal property purchased under an
15 installment sales agreement or through a consumer
16 credit transaction, but does not include any insurance
17 that provides theft, collision, liability, property damage,
18 or comprehensive insurance coverage in any automobile
19 or any other self-propelled vehicle that is designed
20 primarily for operation in the air or on the highways,
21 waterways, or sea, and its operating equipment, or that is
22 necessitated by reason of the liability imposed by law for
23 damages arising out of the ownership, operation,
24 maintenance, or use of those vehicles. However, that
25 excluded insurance does ~~not~~ include single interest
26 coverage on any of those vehicles that insures the interest
27 of the creditor in the same manner as collateral secures
28 a loan.

29 (h) “Debtor group insurance” has the same meaning
30 as the insurance policies described in Sections 10203.5 and
31 10270.55.

32 ~~SEC. 8.—~~

33 *SEC. 10. This act shall become operative on January*
34 *1, 2001.*

35 *SEC. 11. No reimbursement is required by this act*
36 *pursuant to Section 6 of Article XIII B of the California*
37 *Constitution because the only costs that may be incurred*
38 *by a local agency or school district will be incurred*
39 *because this act creates a new crime or infraction,*
40 *eliminates a crime or infraction, or changes the penalty*



1 for a crime or infraction, within the meaning of Section
2 17556 of the Government Code, or changes the definition
3 of a crime within the meaning of Section 6 of Article
4 XIII B of the California Constitution.

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