

Assembly Bill No. 845

CHAPTER 260

An act to add Section 12921.8 to the Insurance Code, relating to insurance.

[Approved by Governor August 30, 1999. Filed with
Secretary of State August 30, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

AB 845, Maddox. Insurance Commissioner: cease and desist orders.

Existing law specifies the powers and duties of the Insurance Commissioner with respect to regulation and licensing of the business of insurance. Under various provisions, the commissioner is authorized to issue a cease and desist order against persons engaged in certain unlawful activities.

This bill would provide that the commissioner has the authority to issue a cease and desist order against any person acting as, or holding himself, herself, or itself out as, an insurance agent or broker without being so licensed, and against any person holding out that person as transacting, or transacting, the business of insurance without having been issued a certificate of authority. The commissioner would be authorized to issue the cease and desist order without holding a hearing prior to issuance of the order, and to impose a civil penalty of up to \$5,000 for each day the order is violated. The bill would permit a person against whom a cease and desist order is issued to request the commissioner for a hearing on the order, and to have a review of the hearing proceedings and the order, both pursuant to the Administrative Procedure Act.

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

SECTION 1. Section 12921.8 is added to the Insurance Code, to read:

12921.8. (a) The commissioner shall have the authority to issue a cease and desist order against any person acting as, or holding himself, herself, or itself out as, an insurance agent or broker without being so licensed, and against any person holding out that person as transacting, or transacting, the business of insurance without having been issued a certificate of authority. The commissioner may issue a cease and desist order without holding a hearing prior to issuance of the order. The commissioner may impose a fine of up to five thousand dollars (\$5,000) for each day the order is violated.

(b) A person to whom a cease and desist order is issued, may, within seven days after service of the order, request a hearing by filing a request for the hearing with the commissioner. Any hearing shall be conducted in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with Section 11400), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and the commissioner shall have all the powers granted therein.

(c) A person who has a hearing pursuant to subdivision (b) shall be entitled to have the proceedings and the order of the commissioner reviewed by means of any remedy provided by the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with Section 11400), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

