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INSURANCE CODE - INS

DIVISION 1. GENERAL RULES GOVERNING INSURANCE [100 - 1879.8] (*Division 1 enacted by Stats. 1935, Ch. 145.*)

PART 2. THE BUSINESS OF INSURANCE [680 - 1879.8] (*Part 2 enacted by Stats. 1935, Ch. 145.*)

CHAPTER 1. General Regulations [680 - 1113] (*Chapter 1 enacted by Stats. 1935, Ch. 145.*)

ARTICLE 3. Certificate of Authority [699 - 728] (*Article 3 enacted by Stats. 1935, Ch. 145.*)

699. Except as specifically permitted by this code, a certificate of authority shall not be issued to an unincorporated insurer. This section shall not be applicable to an unincorporated insurer now holding a certificate of authority to transact any class of insurance in California, nor shall it affect the right of any such unincorporated insurer to hereafter apply for or be issued a renewal certificate of authority or an amended certificate of authority to transact additional classes of insurance; provided, that any such unincorporated insurer shall continue to comply insofar as applicable with the same requirements as are now or hereafter applicable to corporate insurers; nor shall this section prohibit the issuance of a certificate of exemption to the trustees of a fund established by one employer, or by two or more employers in the same industry, or by one or more labor unions, or by one or more employers and one or more labor unions, to insure employees of the employers or members of the unions for the benefit of persons other than the employers or the unions.

(*Added by Stats. 1955, Ch. 1364.*)

699.1. The Public Employees' Retirement System is exempt from the provisions of this code with respect to the group life insurance program established pursuant to Article 7 (commencing with Section 21400), Chapter 9, Part 3, Title 2 of the Government Code.

(*Added by Stats. 1974, Ch. 374.*)

699.5. (a) The ownership or financial control, in part, direct or indirect, of any domestic, foreign, or alien insurer, by any state of the United States or by a foreign government or by any political subdivision of either, or by an agency of any other state, government, or subdivision thereof, shall not, provided the insurer complies with all other requirements for issuance, renewal, or continuation of a license, restrict the commissioner from issuing, renewing, or continuing in effect the license of that insurer to transact in this state the kinds of insurance business for which that insurer is otherwise qualified under the provisions of this chapter and under its charter, unless the commissioner finds that any of the following is true:

- (1) The insurer is subject to any form of subsidy that would enable it to compete unfairly with domestic insurers.
- (2) The insurer is subject to governmental practices that discriminate on the basis of any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code.
- (3) The ownership or financial control will create the presence of any sovereign immunity in the insurer.
- (4) Appropriate measures and controls do not exist to avoid security problems resulting from an insurer's access to confidential information and data of its insured.
- (5) The ownership or financial control results in substantial or undue influence being asserted over the insurer.

(b) The failure by any applicant for a license to submit the information requested by the commissioner for the purposes of determining whether to make a finding pursuant to subdivision (a) shall be sufficient to deny the application.

(c) Nothing in the amendments to this section enacted during the 1994 portion of the 1993–94 Regular Session of the Legislature shall be interpreted to authorize the issuance of a license to an insurer wholly owned by any governmental entity described in subdivision (a).

(*Amended by Stats. 2008, Ch. 682, Sec. 5. Effective January 1, 2009.*)

700. (a) A person shall not transact any class of insurance business in this state without first being admitted for that class. Except for the State Compensation Insurance Fund as authorized by Sections 11770 and 11778 to 11780.5, inclusive, admission is secured by procuring a certificate of authority from the commissioner. The certificate shall not be granted until the applicant conforms to the requirements of this code and of the laws of this state prerequisite to its issue.

(b) The unlawful transaction of insurance business in this state in willful violation of the requirement for a certificate of authority is a public offense punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or in a county jail not exceeding one year, or by fine not exceeding one hundred thousand dollars (\$100,000), or by both that fine and imprisonment, and shall be enjoined by a court of competent jurisdiction on petition of the commissioner.

(c) After the issuance of a certificate of authority, the holder shall continue to comply with the requirements as to its business set forth in this code and in the other laws of this state, including, but not limited to, Chapter 5 (commencing with Section 1631), with regard to employees or contractors who solicit, negotiate, or effect insurance.

(d) Where a hearing is held under this section the proceedings shall be conducted in accordance with 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.

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

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

(Amended by Stats. 2011, Ch. 15, Sec. 205. (AB 109) Effective April 4, 2011. Operative October 1, 2011, by Sec. 636 of Ch. 15, as amended by Stats. 2011, Ch. 39, Sec. 68.)

700.01. In addition to any or all of the classes of insurance which it is permitted to transact by all other applicable provisions of this code, any incorporated insurer admitted or hereafter admitted for one or more of the classes of insurance stated in Section 100, except life, title, mortgage, or mortgage guaranty shall (subject to any limitations contained in its articles of incorporation or charter) be admitted after January 1, 1990, for any or all of the following classes, upon making application therefor and complying with all applicable requirements of law, if its paid-in capital is not less than two million six hundred thousand dollars (\$2,600,000) or the aggregate of the amounts hereinafter set forth opposite the classes transacted by it in the United States if an alien insurer, or in any jurisdiction if other than an alien insurer, whichever is lower; provided, that the paid-in capital of incorporated insurers not transacting either fire, marine or surety insurance making application under this section shall be at least three hundred thousand dollars (\$300,000) in excess of that aggregate amount. In no event shall any incorporated insurer, as a condition for its admission, be permitted to have a paid-in capital of less than one million dollars (\$1,000,000) or be required to have a paid-in capital in excess of two million six hundred thousand dollars (\$2,600,000) for any or all of the classes of insurance hereinafter set forth.

Number and name of class		Amount of capital
2. Fire		\$350,000
3. Marine		350,000
5. Surety		350,000
6. Disability		250,000
7. Plate glass		100,000
8. Liability	} _____ _____ } _____ J _____	300,000 for any or all of these
9. Workers' compensation		
10. Common carrier liability		
11. Boiler and machinery		100,000
12. Burglary		100,000
13. Credit		100,000

14. Sprinkler	100,000
15. Team and vehicle	100,000
16. Automobile	200,000
18. Aircraft	100,000
20. Miscellaneous	100,000

This section shall not be applicable to life, title, mortgage, or mortgage guaranty insurance, and an insurer now or hereafter admitted to transact life, title, mortgage, or mortgage guaranty insurance shall not be admitted under the provisions of this section, but its admission is governed by other applicable provisions of this code.

Insurers admitted for one or more classes of insurance on December 31, 1989, shall be governed by the provisions of this section in effect as of December 31, 1989, until December 31, 1999. After December 31, 1999, all insurers governed by this section shall meet the capital requirements of this section as become effective January 1, 1990. Insurers admitted for one or more classes of insurance on December 31, 1989, that thereafter amend their certificate of authority to add a class or classes of insurance shall become subject to the capital requirements of this section.

(Amended by Stats. 1989, Ch. 418, Sec. 1.)

700.02. No insurer shall be issued a certificate of authority other than a renewal certificate of authority for any of the classes set forth in Section 100 unless at the time of such issuance it possesses, in addition to the minimum paid-in capital required by this code a surplus of not less than 100 percent of the minimum paid-in capital required.

As used in this section, surplus means the excess of admitted assets over the sum of (1) liabilities for losses reported, expenses, taxes and all other indebtedness and reinsurance of outstanding risks as provided by law, and (2) paid-in capital, in the case of an insurer issuing or having outstanding shares of capital stock, or (3) the minimum paid-in capital required, in the case of any other insurer.

(Amended by Stats. 1982, Ch. 389, Sec. 2.)

700.025. An insurer, including a reciprocal or interinsurance exchange, admitted on January 1, 1970, to transact automobile liability insurance under class 8 and automobile insurance under class 16, or which had a valid bona fide application to transact both such classes of insurance pending before the commissioner on or before August 1, 1970, shall not be affected by this section.

Any other insurer, including a reciprocal or interinsurance exchange, applying to transact either of such class of insurance in this state, shall possess, at the time of admission for either of such classes, in addition to all minimum paid-in capital required by Section 700.01 and all surplus and paid-in capital required by Sections 700.02 and 700.05, an additional surplus of two hundred thousand dollars (\$200,000).

(Added by Stats. 1970, Ch. 544.)

700.03. Notwithstanding the requirements of Sections 700.01 and 10511 until June 30, 1955, the minimum paid-in capital required for renewal, for the same classes of insurance, of the certificate of authority of any insurer which was in effect on July 1, 1953, shall be that required by such sections as effective on such date. After June 30, 1955, and until such time as such insurer increases its paid-in capital to the amount required by Sections 700.01 and 10511 as effective on October 1, 1953, the minimum paid-in capital required for such renewal shall continue to be that required by such sections as effective on July 1, 1953, but such insurer shall be required to maintain a surplus, as defined in Section 700.02, in an amount which, when combined with the amount of its paid-in capital, shall equal the minimum amount of paid-in capital required by Sections 700.01 and 10511 as effective on October 1, 1953.

(Added by Stats. 1953, Ch. 958.)

700.04. Paid-in capital for life insurers is governed by Section 10510 of this code, for title insurers by Section 12359, and for mortgage guaranty insurers by Section 12640.03.

(Amended by Stats. 2012, Ch. 786, Sec. 6. (AB 2303) Effective January 1, 2013.)

700.05. (a) In determining the minimum amount of paid-in capital and surplus required by the applicable provisions of this code for admission of an insurer, there shall be included all of the classes of insurance transacted by it in the United States if an alien insurer, or in any jurisdiction if other than an alien insurer; provided, that life, title, mortgage or mortgage guaranty insurance shall not be included among the classes of insurance in determining the minimum amount of paid-in capital and surplus required if the minimum paid-in capital is two million six hundred thousand dollars (\$2,600,000) or more, and if the paid-in capital is less than two million six

hundred thousand dollars (\$2,600,000) the minimum shall be measured by adding to the amounts set forth in Section 700.01 two million two hundred fifty thousand dollars (\$2,250,000) for life insurance, two hundred fifty thousand dollars (\$250,000) for mortgage insurance, one million dollars (\$1,000,000) for mortgage guaranty insurance and two hundred fifty thousand dollars (\$250,000) for title insurance.

In applying such provisions, it shall be conclusively presumed that an insurer transacts all classes of insurance for which it is or seeks to be admitted to transact in this state.

(b) As used in this section, "insurer" includes a reciprocal or interinsurance exchange and its attorney in fact.

(Amended by Stats. 1989, Ch. 418, Sec. 2.)

701. Subject to the annual fee provisions of Section 705, every certificate of authority shall be for an indefinite term and shall expire with the expiration or termination of a corporate existence of the holder thereof. Notwithstanding the provisions of this section, whenever the commissioner shall determine, after notice and hearing, that any insurer to whom such certificate has been issued is in arrears to the State, or to any county or city in the State, for fees, licenses, taxes, assessments, fines or penalties, accrued on business transacted in the State, or is otherwise in default for failure to comply with any of the laws of this State regarding the governmental control of such insurer by the State, he may order that such insurer comply with the said requirements within 30 days of such determination. If the insurer fails to comply within such period, the certificate of authority may then be revoked, unless the commissioner's order is stayed by a court of appropriate jurisdiction.

(Repealed and added by Stats. 1955, Ch. 1037.)

702. (a) An insurer that maintains a certificate of authority to transact insurance in this state, advertises insurance on the Internet, and transacts insurance in this state, shall identify all of the following information on the Internet, regardless of whether the insurer maintains its Internet presence or if the presence is maintained on its behalf:

(1) Its name as it appears on its California certificate of authority, and if different, the name approved by the commissioner for doing business in this state.

(2) The state of its domicile and its principal place of business.

(3) The number on its California certificate of authority. In lieu of this number, an insurer may identify all states in which it maintains certificates of authority to transact insurance, provided that the insurer discloses its identification number as assigned by the National Association of Insurance Commissioners.

(b) An Internet presence maintained by or on behalf of an insurer not admitted to transact insurance in this state constitutes an advertisement, and the insurer shall comply with the requirements of Section 703.1 if it transacts insurance as defined in subdivision (c).

(c) A person who advertises on the Internet shall be deemed to be transacting insurance in this state if the person does any of the following:

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

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

(3) Otherwise communicates with a California resident regarding one or more terms of an agreement to provide insurance or an insurance policy.

This subdivision shall not apply to any lawful placement with a nonadmitted insurer, including when a person conveys a quote, accepts an application, and conducts all communications with a California resident solely through a surplus line broker or special lines' surplus line broker pursuant to California surplus line laws.

(Added by Stats. 2000, Ch. 211, Sec. 1. Effective January 1, 2001.)

703. Except when performed by a surplus line broker, the following acts are misdemeanors when done in this state:

(a) Acting as agent for a nonadmitted insurer in the transaction of insurance business in this state for a home state insured as defined in subdivision (f) of Section 1760.1.

(b) In any manner advertising a nonadmitted insurer in this state.

(c) In any other manner aiding a nonadmitted insurer to transact insurance business in this state for a home state insured as defined in subdivision (f) of Section 1760.1.

In addition to any penalty provided for commission of misdemeanors, a person violating any provision of this section shall forfeit to this state the sum of five hundred dollars (\$500), together with one hundred dollars (\$100) for each month or fraction thereof during which he or she continues the violation. This section shall not apply to advertising authorized by Section 703.1, subdivision (h) of Section 1760.5, or Section 1773.

(Amended by Stats. 2011, Ch. 83, Sec. 5. (AB 315) Effective July 15, 2011. Operative July 21, 2011, by Sec. 34 of Stats. 2011, Ch. 83.)

703.1. (a) Any nonadmitted insurer that is an eligible surplus line insurer pursuant to Section 1765.1 may advertise in all media, provided that all of the following apply: (1) the insurer's unlicensed status in California is disclosed in type of a size no smaller than any telephone number, address, or fax number appearing in the advertisement or solicitation, (2) the advertisement does not contain any assertion, representation, or statement with respect to the business of insurance or with respect to any person in the conduct of his or her insurance business, that is untrue, deceptive, or misleading, and that is known, or that by the exercise of reasonable care should be known, to be untrue, deceptive, or misleading, (3) the advertisement does not contain any information about the nonadmitted insurer's premiums or rates, and (4) no specific product shall be advertised in a newspaper of general circulation, in a television or radio broadcast, or in a news magazine of general circulation.

(b) Any nonadmitted insurer that is not an eligible surplus line insurer pursuant to Section 1765.1 may advertise in all media, except for media that are targeted primarily at insureds or prospective insureds residing in California, provided that all of the conditions set forth in subdivision (a) are complied with and the advertisement does not contain any information about the insurer's specific products.

(c) A group of nonadmitted insurers may advertise to the same extent as a nonadmitted insurer, subject to the same requirements set forth in subdivision (a) or (b), as applicable.

(d) An eligible nonadmitted insurer that is a member of a group of insurers may include the name of the group in advertisements that are authorized by this section.

(e) The permission to advertise granted by this section shall not be deemed to authorize an insurer to do business in this state.

(Amended by Stats. 2011, Ch. 83, Sec. 6. (AB 315) Effective July 15, 2011. Operative July 21, 2011, by Sec. 34 of Stats. 2011, Ch. 83.)

703.5. Any person, including, but not limited to, persons licensed or certificated under this code or exempted from regulation under this code, who as a part of any business advertises as, or holds himself or herself out as, qualified to advise the public concerning insurance or qualified to administer workers' compensation for employers and who in connection with or as part of that business also, with or without consideration, (a) suggests or recommends to an employer, or advises an employer, that the employer purchase aggregate excess or aggregate stop-loss workers' compensation insurance, or (b) names or suggests to an employer, or advises an employer of, a nonadmitted insurer from whom aggregate excess or aggregate stop-loss workers' compensation insurance might be purchased, is guilty of a misdemeanor. This section does not apply if the employer is a self-insured public entity, including any agency, board, or commission provided for by a joint exercise of powers agreement, or those who have been issued a certificate by the Director of the Department of Industrial Relations to self-insure.

(Amended by Stats. 1992, Ch. 378, Sec. 1. Effective January 1, 1993.)

704. The commissioner may suspend the certificate of authority of an insurer for not exceeding one year whenever he finds, after proper hearing following notice, that such insurer engages in any of the following practices:

(a) Conducting its business fraudulently.

(b) Not carrying out its contracts in good faith.

(c) Habitually and as a matter of ordinary practice and custom compelling claimants under policies, or liability judgment creditors of the insured, to either accept less than the amount due under the terms of the policies or resort to litigation against such insurer to secure the payment of the amount due.

The order of suspension shall prescribe the period of such suspension.

The proceedings shall be conducted in accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, and the commissioner shall have all the powers granted therein.

(Amended by Stats. 1959, Ch. 1452.)

704.5. The commissioner may decline to grant or may suspend or revoke a certificate of authority of any holder of such certificate authorized to be certificated under this code if any person or persons, directly or indirectly, or any person who as an affiliate or part of any affiliate, directly or indirectly, owning or controlling, in the aggregate, any interest in more than 10 percent of the stock of such holder of the certificate, or its subsidiary, or any company or entity controlling such holder, or if any officer or director of such holder has been convicted on, or pleaded guilty or nolo contendere to, an indictment or information in any jurisdiction charging a felony for theft or larceny, mail fraud, or violation of any corporate securities statute or any insurance statute.

(Amended by Stats. 1969, Ch. 878.)

704.7. The commissioner, in any proceeding under Section 704 for any of the violations specified in that section, may, by an alternative order, permit the holder of that certificate of authority to elect in writing to pay a specified money penalty, within a specified time, in lieu of the suspension of its certificate of authority. If the holder so elects, the sum of money specified shall be paid to the commissioner for the use of the State of California. The sum specified shall not exceed fifty-five thousand dollars (\$55,000). If the holder so electing fails to pay the specified sum within the specified time the commissioner shall, unless his or her order be lawfully stayed, forthwith put in effect the alternative specified in his or her order.

All moneys received by the commissioner pursuant to this section shall, when appropriated for that purpose by the Legislature, be available for expenditure by the commissioner in accordance with law in administration and enforcement of this code and other insurance laws.

The authority vested in the commissioner by this section shall be additional to and not in lieu of any other authority to enforce any penalties, fines or forfeitures, denials, suspensions, restrictions, or revocations of certificates of authority otherwise authorized by law.

(Amended by Stats. 1988, Ch. 1018, Sec. 1.)

705. The commissioner shall require the payment of one hundred thirty-six dollars (\$136), in advance, as a fee for filing an application for each amendment of a certificate of authority authorizing any insurer to transact business in this state. Notwithstanding Section 701, each insurer possessing a certificate of authority of indefinite term pursuant to that section shall owe and pay an annual fee of four hundred twenty-four dollars (\$424), in advance, on account of that certificate until its final expiration. That fee shall be for annual periods commencing on July 1 of each year and ending on June 30 of each year and is due on each March 1 and is delinquent on and after each April 1.

(Amended by Stats. 2017, Ch. 534, Sec. 4. (AB 1699) Effective January 1, 2018.)

705.1. The commissioner shall require the payment of four thousand two hundred thirty-three dollars (\$4,233), in advance, as a fee for filing an application and all supporting exhibits including articles of incorporation, certificates of organization, certificates of capital and assets, certificates of deposit, financial statements, affidavits, appointments of agents for service of process, bonds, deposit schedules, appraisals, and other papers, in support of each original certificate of authority. That fee shall be in lieu of the fees for filing or receiving those papers in support of an application for an original certificate of authority as specified in Section 940.1 and as specified in the following sections of the Insurance Code as they existed on January 1, 1963: 705, 712, 900.5, 946, 976, 1350, 1590 (but not 1599), 1601, 7034, 9034, and 11090.

(Amended by Stats. 2017, Ch. 534, Sec. 5. (AB 1699) Effective January 1, 2018.)

706. Prior to admission each insurer shall file with the commissioner a certified copy of its last annual statement or a verified financial statement exhibiting its condition and affairs.

(Enacted by Stats. 1935, Ch. 145.)

706.5. The commissioner, in addition to any other proper ground for denying a certificate of authority to a nonadmitted insurer, may deny such certificate whenever, in his judgment, the investments of such insurer are not so made as to make available within a reasonable time sufficient moneys to meet promptly any demand which might in the ordinary course of events be properly made against the insurer. In the case of an admitted insurer, whenever the commissioner finds such a condition to exist, he may order such insurer to cease to effect new contracts of insurance until its financial circumstances are changed sufficiently to remove such condition. The commissioner may suspend or revoke the certificate of authority of any admitted insurer which fails to comply with such order.

The commissioner shall not issue such order under this section to any solvent admitted insurer if 25 per cent or more in value of the assets thereof is in cash or invested in the securities specified by sections 1171, 1172, 1173, 1174 and 1175, or in securities specified in sections 1191 and 1192 if such securities are listed on a securities exchange, subject to regulation, supervision, or control under a statute of the United States of America. The provisions of this section likewise apply to reciprocal or interinsurance exchanges.

(Added by Stats. 1937, Ch. 724.)

706.7. As used in this section, the term "reciprocal state" means a state the laws of which prohibit an insurer domiciled therein from insuring the lives or persons of residents of, or property or operations located in, the State of California unless it then holds a valid and subsisting certificate of authority issued by the Insurance Commissioner of this state. This prohibition may be subject to the exceptions herein set forth.

Subject to the exceptions herein set forth, a domestic insurer shall not enter into a contract of insurance upon the life or person of a resident of, or property or operations located in, a reciprocal state unless it is authorized pursuant to the laws of that state to transact such insurance therein. The commissioner shall, every four years, mail notice to every domestic insurer, specifying the reciprocal states.

The exceptions to the provisions of this section are the following:

- (a) Contracts entered into where the prospective insured is personally present in the state in which the insurer is authorized to transact insurance when he or she signs the application.
- (b) The issuance of certificates under a lawfully transacted group life or group disability policy, where the master policy was entered into in a state in which the insurer was then authorized to transact insurance.
- (c) The renewal or continuance in force, with or without modification, of contracts otherwise lawful and which were not originally executed in violation of this section.

(Amended by Stats. 2009, Ch. 234, Sec. 1. (AB 299) Effective January 1, 2010.)

707. A domestic insurer shall, prior to admission, file with the commissioner a copy of its articles of incorporation and certificate of any increase or diminution of its capital stock, certified by the Secretary of State to be a copy of that which is filed in his office.

(Enacted by Stats. 1935, Ch. 145.)

708. A foreign insurer shall, prior to admission, file with the commissioner the following:

- (a) If organized in a jurisdiction which requires articles to be filed, a copy of its articles of incorporation, duly certified by the officer having the custody of such articles.
- (b) If organized in a jurisdiction which does not require articles to be filed, a copy of the law, charter, or deed of settlement under which the insurer is organized, duly certified by the proper custodian thereof, or proved by affidavit to be a copy.
- (c) A certificate under the hand and seal of the officer, if any, having supervision of insurance business in the jurisdiction of its organization, stating that the insurer is organized under the laws of such jurisdiction, and has the amount of capital stock or assets required by this code.

(Enacted by Stats. 1935, Ch. 145.)

709. If the insurer is organized in any other State, it shall, prior to admission, file with the commissioner a certificate setting forth:

- (a) The nature and character of its business.
- (b) The location of its principal office.
- (c) The names of the following parties:
 - (1) If the insurer is not incorporated, and there are more than ten owners of interests therein, the names of the ten persons who own the largest interests; if there are ten or less such owners, the names of all such owners.
 - (2) If the insurer is incorporated, the names of all officers and persons by whom the business is managed.
- (d) The amount of actual capital to be employed therein.

The certificate must be verified by the affidavit of the chief officer, secretary, agent, or manager of the company.

(Enacted by Stats. 1935, Ch. 145.)

709.5. (a) Any insurer that is organized under the laws of any other state and is admitted to do business in this state for the purpose of writing insurance may become a domestic insurer by designating its principal place of business at a place in this state and redomesticate by filing articles of incorporation as authorized by subdivision (a) of Section 201.6 of the Corporations Code. The domestic insurer shall be entitled to like certificates and licenses to transact business in this state and shall be subject to the authority and jurisdiction of this state.

(b) Any domestic insurer may, upon the prior approval of the commissioner, transfer its domicile to any other state in which it is admitted to transact the business of insurance and redomesticate by filing a statement and designation as authorized by Section 2105 of the Corporations Code and a statement of redomestication as authorized by subdivision (c) of Section 201.6 of the Corporations Code, and upon the transfer shall cease to be a domestic insurer, and shall be admitted to this state if qualified as a foreign insurer. The commissioner shall approve any proposed transfer unless he or she determines that the transfer is not in the interest of the policyholders of this state. An insurer seeking to transfer its domicile shall provide the commissioner with information and documentation reasonably necessary to make this determination. The commissioner shall either approve or disapprove the

transfer within 90 calendar days after the date of the request. The commissioner and his or her authorized representative shall be prohibited from seeking a waiver to extend the 90-calendar-day period, nor shall the insurer be permitted to waive that period.

(c) The certificate of authority, agent and broker appointments and licenses, rates, and other items that the commissioner allows in his or her discretion, that are in existence at the time any insurer licensed to transact the business of insurance in this state transfers its corporate domicile to this or any other state by merger, consolidation, or any other lawful method shall continue in full force and effect upon that transfer if the insurer remains duly qualified to transact the business of insurance in this state. All outstanding policies of any transferring insurer shall remain in full force and effect and need not be endorsed as to the new name of the company or its new location unless so ordered by the commissioner. Every transferring insurer shall file new policy forms with the commissioner on or before the effective date of the transfer, but may use existing policy forms with appropriate endorsements if allowed by, and under those conditions as approved by, the commissioner. However, every transferring insurer shall notify the commissioner of the details of the proposed transfer, and shall file promptly all resulting amendments to corporate documents filed or required to be filed with the commissioner.

(d) An insurer seeking qualification under this section shall pay to the commissioner a filing fee of six thousand three hundred fifty dollars (\$6,350). Except for an insurer that is a wholly owned subsidiary of a domestic holding company, an insurer seeking qualification shall file with the Secretary of State a statement of redomestication as prescribed by subdivision (c) of Section 201.6 of the Corporations Code and shall also file with the commissioner a designation of an agent for service of process. The commissioner may write a letter to the insurer confirming the redomestication has been approved.

(e) Notwithstanding any other law, this section provides the exclusive means for an admitted insurer to change its domicile to, or transfer its domicile from, this state.

(Amended by Stats. 2017, Ch. 534, Sec. 6. (AB 1699) Effective January 1, 2018.)

710. If there are any written articles of agreement or association, a copy thereof shall accompany such certificates.

(Enacted by Stats. 1935, Ch. 145.)

711. An insurer organized out of the United States shall also file such certificate and articles, but the certificate need not contain the names of any officers or managers other than those resident within the United States, nor any statement of capital not employed within the United States, and the affidavit shall be made by the chief executive officer or manager in the United States.

(Enacted by Stats. 1935, Ch. 145.)

(a) A copy of the instrument or record of the action making any change in any of the documents filed with the commissioner pursuant to this article by a domestic insurer, proved by certificates of custodian of the original, or by affidavit, shall be filed with the commissioner.

713. (b) Upon request, a foreign or alien insurer shall file any change proved by certificates of custodian of the original, or by affidavit.

(Amended by Stats. 2011, Ch. 411, Sec. 3. (AB 1416) Effective January 1, 2012.)

714. The commissioner shall require the payment of seventy-two dollars (\$72), in advance, as a fee for filing papers required under Section 713, on account of change or changes made at one time.

(Amended by Stats. 2017, Ch. 534, Sec. 7. (AB 1699) Effective January 1, 2018.)

715. The commissioner shall have no authority to issue a certificate of authority, other than a renewal certificate of authority, to any domestic insurer, whether organized and promoted directly or by means of a holding company, where the commissioner's examination shows that the expense of organization and promotion, exclusive of attorney fees, accountant fees, and actuary fees, exceeds 12 percent of the total amount actually paid on its capital stock.

(Amended by Stats. 1972, Ch. 196.)

716. No certificate of authority shall be granted to a foreign or alien applicant that has not actively transacted for three years the classes of insurance for which it seeks to be admitted.

This section shall not apply to any of the following:

(a) An applicant 51 percent or more of whose voting shares are owned by a reputable insurer admitted to this state for at least three years.

(b) An applicant which is the successor in interest, by merger, transformation, consolidation, purchase, or other transaction, of substantially all the insurance business and going concern value of a reputable insurer which was, and still is, the dominant factor in such transaction, and could itself have been admitted.

(c) An applicant 51 percent or more of whose voting shares are owned by a noninsurance corporation, or a corporation authorized as an insurer but not actively engaged in the insurance business, which corporation, directly or indirectly, owns 51 percent or more of the voting shares of one or more insurers all of which, except the applicant and those which are alien insurers, are reputable insurers admitted to this state for at least three years.

(d) An applicant which meets the conditions established by the commissioner for exemption from this section.

(Amended by Stats. 1980, Ch. 223, Sec. 1.)

717. Before granting a certificate of authority or amended certificate of authority to any applicant, the commissioner shall consider the qualifications of said applicant in respect to the following subjects: (a) capital and surplus; (b) lawfulness and quality of investments; (c) financial stability; (d) reinsurance arrangements; (e) competency, character, and integrity of management; (f) ownership and control of issued and outstanding shares in the case of a capital stock insurer; (g) whether claims under policies are promptly and fairly adjusted and are promptly and fully paid in accordance with law and the terms of policies; (h) fairness and honesty of methods of doing business; (i) method by which said applicant was promoted if any of its promoters remain as stockholders or in management; and (j) hazard to policyholders or creditors.

Upon consideration of all relevant qualifications the commissioner shall issue a certificate of authority to such applicant, unless the commissioner shall have made a finding, or findings, that the applicant is materially deficient in respect to one or more of the items as outlined in (a) through (j), above.

(Added by Stats. 1965, Ch. 1044.)

717.1. Where the applicant is a wholly owned domestic subsidiary of an admitted domestic insurer the commissioner shall issue a certificate of authority to such applicant within 180 days of application unless the commissioner shall have made a finding that the applicant is substantially deficient in respect to one or more of the items set forth in Section 717.

(Added by Stats. 1980, Ch. 262, Sec. 1.)

717.2. (a) On and after January 1, 2007, for purposes of Section 717, the commissioner shall consider, with respect to any application for a certificate of authority or amended certificate of authority to transact health insurance, as defined in subdivision (b) of Section 106, in this state, any available evidence regarding any one or more of the following:

(1) Any prior history of providing, or arranging to provide for, health care coverage, services, or benefits in this state and the applicant's history of substantial compliance with applicable state and federal laws, regulations, and requirements.

(2) Any prior history in this state or any other state, of providing, or arranging to provide for, health care coverage, services, or benefits for which the applicant is authorized to receive Medicare Program reimbursement or Medicaid Program reimbursement, and the applicant's history of substantial compliance with applicable state and federal laws, regulations, and requirements.

(3) Any prior history on the part of the applicant's management of providing, or arranging to provide for, health services as a licensed health professional or an individual or entity contracting with a health care service plan or insurer, and the applicant's history of substantial compliance with state requirements, and applicable federal law, regulations, and requirements.

(b) The commissioner may also require the applicant to provide information or documents for the purposes of this section. The commissioner shall consider any other relevant information concerning misconduct.

(Added by Stats. 2006, Ch. 758, Sec. 4. Effective January 1, 2007.)

717.5. (a) For purposes of Sections 700 and 717, the commissioner may determine that an insurer admitted and domiciled in this state, or an insurer applying to become admitted and domiciled in this state, including an applicant pursuant to subdivision (a) of Section 709.5, is qualified to be designated as a professional reinsurer, if the commissioner determines that the insurer is all of the following:

(1) Principally engaged in the business of reinsurance.

(2) Does not conduct significant amounts of direct insurance as percentage of its net premiums.

(3) Is not engaged, on an ongoing basis, in the business of soliciting direct insurance.

(b) The commissioner may consider any information relevant to this determination. An insurer that holds, or is applying for qualification as, a professional reinsurer, shall provide the commissioner with information or documentation regarding the determinations under this section, upon request. The commissioner may prescribe terms and conditions applicable to the certificate of authority, as appropriate under this section.

(c) A domestic, professional reinsurer shall continue to be qualified as long as it continues to meet the requirements set forth in this section.

(d) The commissioner may, after notice and an opportunity to be heard, revoke a reinsurer's qualification, if the reinsurer no longer qualifies under this section.

(e) A domestic insurer that is qualified as a professional reinsurer may include that designation in its name, solicitations, and advertisements.

(f) An insurer seeking qualification under this section shall pay a filing fee of three thousand three hundred twenty-eight dollars (\$3,328), in advance, to the commissioner.

(g) The commissioner may adopt regulations in accordance with the procedure provided in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code or otherwise prescribe requirements consistent with this section.

(h) The commissioner may post prescribed requirements, consistent with this section, on the department's Internet Web site.

(Amended by Stats. 2017, Ch. 534, Sec. 8. (AB 1699) Effective January 1, 2018.)

718. If upon due investigation the commissioner shall find that any applicant for a certificate of authority, or amended certificate of authority, will not conduct its business in conformity with all applicable provisions of the laws of this state, he shall not grant any certificate of authority, or amended certificate of authority, to such applicant.

Where the applicant is a wholly owned subsidiary of or under the management and control of an admitted insurer, or is the successor in interest by merger, consolidation, sale and purchase, or otherwise, of such an admitted insurer, and the applicant is without substantial prior operating history, the commissioner may reasonably rely on the known characteristics and reputation of the admitted insurer to the extent relevant and appropriate under the circumstances.

(Added by Stats. 1965, Ch. 1044.)

720. The commissioner may after notice and hearing promulgate such reasonable rules and regulations, and amendments and additions thereto, as are necessary or convenient to carry out the purposes and provisions of this code governing the issuance, suspension and revocation of certificates of authority. Any such rule or regulation shall be promulgated in accordance with the procedure provided in Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

(Added by Stats. 1965, Ch. 1044.)

721. As used in Sections 704.5, 716, 717 and 718, the term "applicant" includes the attorney-in-fact of a reciprocal or interinsurance exchange. Wherever reference therein is made to an officer, director, or management of the applicant, such reference is deemed to include the officers, directors, and management of the attorney-in-fact of a reciprocal or interinsurance exchange, and the members of the board of governors or other governing committee of the reciprocal itself.

(Added by Stats. 1965, Ch. 1044.)

725. Any person otherwise qualified may be a director of two or more insurers, but no such interlocking directorate shall be used as a means of substantially lessening competition in the business of insurance or of creating a monopoly.

Whenever the commissioner has reason to believe that there is a violation of this section, he shall serve upon the insurer or insurers and the director or directors, as the case may be, a notice pursuant to Section 38 of a hearing before the commissioner to be held not less than thirty days after the service of such notice, and requiring such insurer or insurers and such director or directors, as the case may be, to show cause why an order should not be made by the commissioner directing such insurer or insurers and such director or directors, as the case may be, to cease and desist from such violation.

If, after a hearing in accordance with the procedure provided in Section 704, the commissioner finds that there has been a violation of this section he shall issue and cause to be served upon such insurer or insurers and such director or directors, as the case may be, an order reciting the facts found by him, and setting forth the respects in which there has been a violation of this section, and directing such insurer or insurers and such director or directors, as the case may be, to cease and desist from such violation.

Any such cease and desist order of the commissioner shall be subject to judicial review. Subject to said judicial review, any person violating any such cease and desist order shall be guilty of a misdemeanor and the commissioner may, after a hearing in accordance with the procedure provided in Section 704, decline to grant or renew or may suspend or revoke a certificate of authority of any insurer or insurers violating any such cease and desist order.

(Added by Stats. 1949, Ch. 180.)

726. The commissioner shall notify the Secretary of State of any refusal to issue a certificate of authority to transact insurance to an applicant therefor.

(Added by Stats. 1979, Ch. 737.)

728. (a) For the purposes of this section, the following definitions are applicable:

(1) "Subject person" means any director, officer, or employee or other natural person who participates in the management, direction, or control of an insurer.

(2) "Insurer" means any domestic insurer, and any insurer which is admitted to transact insurance in this state, provided that if a subject person of an insurer is not a resident of California, or operating out of a place of business within California, then the subject person shall be engaged in the direct management, direction, or control of the insurer in California in order to come within the provisions of this section.

(b) If, after notice and a hearing, the commissioner finds all of the following, the commissioner may issue an order removing a subject person from his or her office or employment with the insurer and prohibiting the subject person from further participating in any manner in the conduct of the business of the insurer, except with the prior consent of the commissioner:

(1) The subject person has engaged in repeated acts of misconduct with respect to the operations of an insurer which have resulted in substantial financial loss to an insurer.

(2) The misconduct which forms the pattern is fraudulent, or consists of willful acts or omissions involving personal dishonesty in the acceptance, custody, or payment of money or property on the part of the subject person which has endangered or is likely to endanger the solvency of the insurer.

(3) The pattern of misconduct is relevant in that it demonstrates unfitness to continue as a subject person.

(c) (1) If the commissioner gives written notice pursuant to subdivision (b) to a subject person, the commissioner may immediately issue an order suspending the subject person from his or her office or employment with the insurer and prohibiting the subject person from further participating in any manner in the conduct of the business of an insurer, except with the prior consent of the commissioner if the commissioner: (A) finds that failure to immediately issue such order threatens the financial solvency of the insurer or may otherwise cause immediate and irreparable financial injury to the insurer (B) serves that subject person and the insurer with written notice of the suspension order; and (C) finds that all of the necessary factors are present which would permit the commissioner, after notice and a hearing, to issue an order pursuant to subdivision (b) removing a subject person from his or her office or employment with the insurer and prohibiting the subject person from further participating in any manner in the conduct of the business of an insurer.

(2) Any suspension order issued pursuant to paragraph (1) of this subdivision shall be effective until the date the commissioner dismisses the charges contained in the notice served under subdivision (b) or paragraph (1) of this subdivision, the effective date of an order issued by the commissioner pursuant to subdivision (b), or a court issues a stay of the order pursuant to subdivision (d).

(d) Within 10 days after a subject person has been served with an order of suspension pursuant to subdivision (c), the person may apply to the superior court of the county in which the principal office of the insurer is located for a stay of the order pending completion of the proceedings pursuant to subdivision (b), and the court shall have jurisdiction to issue an order staying the suspension. Nothing in this subdivision shall be deemed to authorize the court to issue a stay order on an ex parte basis.

(e) (1) If the commissioner finds both of the following, he or she may immediately issue an order suspending a subject person from his or her office or employment with an insurer and prohibiting the subject person from further participating in any manner in the conduct of the business of an insurer, except with the prior consent of the commissioner: (A) the subject person has been charged in an indictment issued by a grand jury, or in an information, complaint, or similar pleading issued by a United States Attorney, district attorney, or other governmental official or agency authorized to prosecute crimes, with a crime punishable by imprisonment for a term exceeding one year and which involves as one of its necessary elements a fraudulent act or an act of dishonesty in the acceptance, custody, or payment of money or property; and (B) that a failure to immediately issue the order threatens the financial solvency of the insurer, or may otherwise cause immediate and irreparable financial injury to the insurer.

In the event the criminal proceedings are terminated other than by judgment of conviction, an order issued pursuant to paragraph (1) of this subdivision shall be deemed rescinded as if it had not been issued.

(2) If the commissioner finds both of the following, he or she may immediately issue an order removing a subject person from his or her office or employment with an insurer and prohibiting the subject person from further participating in any manner in the conduct of the business of the insurer, except with the prior consent of the commissioner: (A) the person has been convicted during the preceding five years of a crime that is punishable by imprisonment for a term exceeding one year and that has as one of its necessary elements a fraudulent act or an act of dishonesty in the accepting, custody, or payment of money or property; and (B) that a failure to immediately issue the order threatens the financial solvency of the insurer, or may otherwise cause immediate and irreparable financial injury to the insurer.

(3) The fact that any subject person charged with a crime involving as one of its necessary elements a fraudulent act or any act of dishonesty in the acceptance, custody, or payment of money or property is not convicted of that crime shall not preclude the commissioner from issuing an order regarding the subject person pursuant to other provisions of this code.

(f) (1) Within 30 days after an order is issued pursuant to subdivision (c) or (e), the person to whom the order is issued may choose to do either of the following: (A) file with the commissioner an application for a hearing on the order. The commissioner shall, upon written request of the person, extend the 30-day period by an additional 30 days provided the request is filed with the commissioner within 30 days after the order is issued. If the commissioner fails to commence the hearing within 15 business days after the application is filed, or within a longer period of time to which the person consents, the order shall be deemed rescinded as if it had not been issued. Within 30 days after the hearing, the commissioner shall affirm, modify, or rescind the order; otherwise, the order shall be deemed rescinded as if it had not been issued, or (B) petition for judicial review of the order pursuant to Section 1085 of the Code of Civil Procedure, where the court shall exercise its independent judgment on the evidence.

(2) The right of any person to whom an order is issued pursuant to subdivision (c) or (e) to petition for judicial review of the order shall not be affected by the failure of that person to apply to the commissioner for a hearing on the order as provided by this subdivision.

(g) (1) Any person to whom an order is issued pursuant to subdivision (b), (c), or (e) may apply to the commissioner to modify or rescind the order. The commissioner shall not grant the application unless he or she finds that it is reasonable to believe that the person will, if and when he or she becomes a subject person, comply with all of the applicable provisions of this code and of any regulation or order issued thereunder.

(2) The right of any person to whom an order is issued pursuant to subdivision (b), (c), or (e) to petition for judicial review of the order shall not be affected by the failure of that person to apply to the commissioner pursuant to paragraph (1).

(h) (1) It is unlawful for any subject person or former subject person to whom an order is issued pursuant to subdivision (b), (c) or (e) to do any of the following as long as the order is effective, except with the prior consent of the commissioner: (A) to serve or act as a subject person for or in any insurer; or (B) to directly or indirectly solicit, procure, or transfer or attempt to transfer or vote any proxy, consent or authorization with respect to any shares or other securities of any insurer having voting rights.

(2) If, after notice and a hearing, the commissioner finds that any person has violated paragraph (1) of this subdivision, the commissioner may order that person to pay to the commissioner a civil penalty in an amount the commissioner may specify; provided however, that the amount of the civil penalty shall not exceed one thousand dollars (\$1,000) for each violation or, in the case of a continuing violation, one thousand dollars (\$1,000) for each day for which the violation continues, which may be recovered in a civil action.

In determining the amount of civil penalty to be paid to the commissioner under this paragraph, the commissioner shall consider the financial resources and good faith of the person charged, the gravity of the violation, the history of previous violations by the person, and such other factors as in the opinion of the commissioner may be relevant.

(3) If, after notice and a hearing, the commissioner finds that any insurer has knowingly aided and abetted a subject person in a violation of paragraph (1) of this subdivision, the commissioner may order that insurer to pay to the commissioner a civil penalty in an amount the commissioner may specify; provided however, that the amount of the civil penalty shall not exceed ten thousand dollars (\$10,000) for each violation, or in the case of a continuing violation, ten thousand dollars (\$10,000) for each day for which the violation continues up to a maximum of one hundred thousand dollars (\$100,000), which may be recovered in a civil action. Continuation of the subject person's salary or other employee benefits pending final disposition shall not be considered aiding and abetting a subject person.

In determining the amount of civil penalty to be paid to the commissioner under this paragraph, the commissioner shall consider the financial resources and good faith of the person charged, the gravity of the violation, the history of previous violations by the person, and such other factors as in the opinion of the commissioner may be relevant.

(i) Except as otherwise provided by this section any hearing required by this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, subject to the following:

(1) At the option of the subject person, all such hearings shall be a closed session and private, and the records of the hearings shall not be made public unless the hearing results in a final order adverse to the subject person.

(2) Where judicial review is sought by the subject person pursuant to Section 11523 of the Government Code, the court shall exercise its independent judgment upon the evidence.

(3) When a subject person to whom an order has been issued pursuant to subdivision (c) or (e) applies to the commissioner for a hearing pursuant to subparagraph (A) of paragraph (1) of subdivision (f), the Office of Administrative Hearings shall schedule the hearing on a priority basis at the earliest possible time and once the hearing is commenced, it shall not be continued for more than three business days without the consent of the subject person.

(4) If the Office of Administrative Hearings cannot schedule the commencement of a hearing within 15 business days as provided by paragraph (1) of subdivision (f), and the subject person does not waive his or her right to a hearing commencing within 15 days, the hearings may be conducted by administrative law judges appointed by the commissioner. In the event the subject person chooses to accept a hearing before an administrative law judge appointed by the commissioner, the hearing shall be completed within 45 days of commencement unless additional time is requested by the subject person. If the hearing is not completed within 45 days, the order shall be deemed rescinded as if it had not been issued.

(j) Nothing in this section is intended to or shall be construed to create a private cause of action against an offending subject person or an insurer or production agency that aids and abets a subject person, based on the standards established by this section or the commissioner's findings or orders pursuant to this section.

(k) Notwithstanding this section, or any other authority of the commissioner, the commissioner shall not have the power to remove or replace either the Board of Directors or the President of the State Compensation Insurance Fund.

(Amended by Stats. 2006, Ch. 740, Sec. 3.2. Effective January 1, 2007.)