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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 5.5. Insurance in Connection With Sales and Loans [770 - 776] (*Article 5.5 added by Stats. 1951, Ch. 224.*)

770. No person engaged in the business of financing the purchase of real or personal property or of lending money on the security of real or personal property and no trustee, director, officer, agent or other employee, or affiliate of, any such person shall require, as a condition precedent to financing the purchase of such property or to loaning money upon the security thereof, or as a condition prerequisite for the renewal or extension of any such loan or for the performance of any other act in connection therewith, that the person for whom such purchase is to be financed or to whom the money is to be loaned or for whom such extension, renewal or other act is to be granted or performed negotiate any insurance or renewal thereof covering such property through a particular insurance agent or broker.

(*Added by Stats. 1951, Ch. 224.*)

770.1. No person making a loan of money on the security of real property shall use or make available to any person information contained in a policy of fire or casualty insurance for the purpose of soliciting either type of insurance coverage if the borrower has filed with the lender a statement signed by the borrower that the policy information shall not be so used or made available. The statement may be included by the borrower in his or her letter of authorization designating an insurance agent or broker to the lender. The statement or letter of authorization shall be effective until superseded or revoked by the borrower. This section shall not apply to any person authorized or licensed to make loans pursuant to Division 7 (commencing with Section 18000), Division 9 (commencing with Section 22000), Division 10 (commencing with Section 24000), or Division 11 (commencing with Section 26000) of the Financial Code.

(*Amended by Stats. 1986, Ch. 1229, Sec. 9.*)

770.3. No state department or agency shall negotiate any life or disability insurance or require the placing of that insurance through particular agents, brokers, or companies, except to the extent that the state has a direct financial interest in the subject of the insurance. The state has no financial interest in an annuity purchased for an employee if the premium therefor is paid from a deduction from or reduction in the employee's salary, and any annuity paid for through a deduction or reduction shall not be deemed to have been provided by the state for its employees for purposes of this section, and the state shall not negotiate or require the placing of the annuity through particular agents, brokers, or companies. Nothing contained in this section shall affect the program of life and disability insurance in connection with veterans' farm and home purchases through the Department of Veterans Affairs except that the total life insurance benefit under that program shall in no event exceed 120 percent of the unpaid contract balance. Except in those cases where the premium for an annuity is paid entirely from a deduction from or reduction in an employee's salary, nothing contained in this section shall affect life or disability insurance programs which may be provided by the state for its employees.

Notwithstanding anything in this section to the contrary, in any case in which a tax-sheltered annuity under an annuity plan which meets the requirements of Section 403(b) of the Internal Revenue Code of 1954 is to be placed or purchased for an employee, the employee shall have the right to designate the licensed agent, broker, or company through whom the employee's employer shall arrange for the placement or purchase of the tax-sheltered annuity. In any case in which the employee has designated an agent, broker, or company, the employer shall comply with that designation, except in the case of a designation subject to Section 1153 or Section 12420.2 of the Government Code, or Section 24950 of the Education Code.

As used in this section, "state department or agency" shall include, but not be limited to, school districts.

This section shall apply to all local governmental agencies, as well as state departments and agencies.

(*Amended by Stats. 2008, Ch. 230, Sec. 11. Effective January 1, 2009.*)

771. Sections 770 and 770.1 shall not prevent:

(a) The exercise by any person engaged in that business of that person's right to approve or disapprove, for reasonable cause, as determined by appropriate regulatory authority, of the insurer selected to underwrite the insurance, nor of that person's right to furnish insurance or to renew any insurance required by the contract of sale or trust deed or other loan agreement if the borrower or purchaser shall have failed to furnish the insurance or renewal thereof within a reasonable time or form as may be specified in the sale or loan agreement. The lender shall not refuse to accept insurance provided by an acceptable insurer on the ground that the insurance provides more coverage than is required in the sale or loan agreement, unless the additional coverage consists of automobile, life, or disability insurance.

The Commissioner of Financial Protection and Innovation, in conjunction with the Insurance Commissioner, shall issue appropriate regulations defining "reasonable cause."

(b) Any lender from recommending to any borrower or prospective borrower the placing of insurance with a specified insurer or through a specified insurance agent or broker as long as the recommendation, with respect to a sale of real property or a loan upon the security of real property, clearly sets forth both the name and the mailing address of the recommended insurer or insurance agent or broker and does not violate the provisions of Section 770 or of any other section of this code. On and after July 1, 1972, the recommendation clearly setting forth the name and the mailing address of the recommended insurer or insurance agent or broker shall be in writing.

(c) The free choice of insurance agent or broker by any borrower or purchaser at any time, and the borrower or purchaser may revoke any designation of insurance agent or broker at any time irrespective of the provisions of any loan or purchase agreement or trust deed.

(d) The exercise of any person engaged in that business of that person's right to furnish insurance or to renew insurance, and to charge the account of the borrower or purchaser with the costs thereof, if the borrower or purchaser fails to deliver to the lender the insurance at least 30 days prior to the expiration of the policy. If an insurance policy renewing or replacing, at expiration time, the policy then in force is received by the lender less than 15 days prior to the expiration of the policy held by the lender, or if an insurance policy procured by the borrower or purchaser is subsequently substituted for that then in force, the lender may impose a reasonable service charge as determined by the Insurance Commissioner for the transaction, the payment of which charge by the agent or broker is not a violation of any other provision of this code. No service charges shall be imposed for normal insurance changes made during the term of the policy.

(e) The commissioner is authorized to adopt a uniform statewide schedule of permissive maximum charges for the substitution of policies authorized in subdivision (d).

(Amended by Stats. 2022, Ch. 452, Sec. 193. (SB 1498) Effective January 1, 2023.)

771.01. No person making a loan of money on the security of residential real property shall reject or refuse to accept a policy of fire and casualty insurance underwritten by an insurer chosen by the borrower for any reason that the lender would not impose on an insurer chosen by the lender when the borrower requests the lender to obtain the insurance. This section applies to a lender's rejection or refusal to accept a policy of fire and casualty insurance due to, but not limited to, terms of coverage, conditions of payment, or financial rating of the insurer.

(Added by Stats. 1995, Ch. 857, Sec. 1. Effective January 1, 1996.)

771.02. (a) When a lender or purchaser of a mortgage on real property has required and obtained a copy of the insurance policy covering that real property, it shall be responsible for providing a copy of that insurance policy or other evidence of insurance acceptable to the purchaser to a subsequent purchaser of the mortgage, servicing agent, or insurance tracking service with whom the lender or purchaser of the mortgage subsequently contracts. A copy of the policy or other evidence of insurance shall be provided so that the subsequent purchaser, servicing agent, or insurance tracking service may verify that the borrower has obtained or is maintaining insurance required by the mortgage. This section does not abrogate the responsibility of an insurer, agent, or broker to provide annually, if requested, a copy of the insurance policy directly to the lender or purchaser of the mortgage named as an additional loss payee or lienholder at an address provided by the lender or purchaser of the mortgage.

(b) A copy of the insurance policy or other evidence of insurance acceptable to the purchaser may be provided electronically to the subsequent purchaser of the mortgage, servicing agent, or insurance tracking service with whom the lender or purchaser of the mortgage subsequently contracts, if that party agrees to electronic service.

(Amended by Stats. 2009, Ch. 433, Sec. 10. (AB 328) Effective January 1, 2010.)

771.1. Nothing in this article shall prevent any person licensed pursuant to Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code from recommending, soliciting, negotiating or effecting home protection contracts issued by a company qualified under Part 7 (commencing with Section 12740) of Division 2, in connection with his or her licensed function

authorized by Sections 10131 or 10131.6 of the Business and Professions Code, notwithstanding that such person is not a fire and casualty licensee as defined in Section 1625.

(Added by Stats. 1978, Ch. 1203.)

772. In any trial, hearing or proceeding to determine a violation of this article a written statement signed by the person for whom any purchase is financed, to whom any money is loaned or for whom any extension, renewal or other act in connection with a loan is to be granted or performed, declaring that such person voluntarily chooses the insurance agent or broker through whom the insurance or its renewal was transacted, and that the choice of such insurance agent, or broker was not made a condition precedent to such purchase, loan, extension, renewal or other act shall be prima facie evidence that no violation of Section 770 has occurred, if the borrower or purchaser in his own handwriting shall have written the name of his chosen insurance agent or broker into an authorization of such insurance agent or broker.

(Added by Stats. 1951, Ch. 224.)

773. The commissioner may suspend or revoke any license held by any person who violates Section 770, pursuant to Article 13 of Chapter 5 of this part.

(Amended by Stats. 1959, Ch. 4.)

774. The commissioner, after hearing upon notice, may issue a cease and desist order to any person if he finds that such person has, in more than one transaction, violated Section 770. The violation of such a cease and desist order is a misdemeanor.

(Added by Stats. 1951, Ch. 224.)

775. The commissioner may investigate any person, whether licensed or not, for the purpose of determining if there has been any violation of this article, however, if such investigation be upon a complaint, the complainant must be a party to the contract of sale, trust deed, or loan agreement and must make such complaint within three months of the execution or any modification thereof.

(Added by Stats. 1951, Ch. 224.)

776. No person who sells real property shall require, as a condition precedent to the sale of such real property, that the person buying the real property negotiate any insurance or renewal thereof covering such property through a particular insurance agent, insurance broker, or insurance solicitor.

(Added by Stats. 1969, Ch. 302.)