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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 5.8. Premium Financing [778 - 778.4] (*Article 5.8 added by Stats. 1971, Ch. 1103.)*

778. As used in this article, "premium financing" means engaging in the business of advancing money, directly or indirectly, to an insurer or producer at the request of an insured pursuant to the terms of a premium finance agreement, wherein the insured has assigned the unearned premiums, accrued dividends, or loss payments as security for such advancement in payment of premiums on insurance contracts only, and does not include the financing of insurance contract premiums purchased in connection with the financing of goods and services.

(*Added by Stats. 1971, Ch. 1103.*)

778.1. As used in this article, "premium finance agreement" means a loan contract, note, agreement, or obligation by which an insured agrees to pay to a lender in installments the principal amount advanced by the lender to an insurer or producer in payment of premium on an insurance contract or contracts, plus charges, with the assignment, as security therefor, of the unearned premiums, accrued dividends, or loss payments.

(*Added by Stats. 1971, Ch. 1103.*)

778.2. (a) Any person engaged in business as an insurance agent or broker and who participates in the arrangement of a premium financing agreement shall, if he accepts compensation for arranging, directing, or performing services in connection with the premium financing agreement, disclose to the insured, in a manner and form established by the commissioner, the amount of compensation he is to receive from the premium financier and maintain for three years and make available to the commissioner a list of accounts in connection with which he has accepted compensation for premium financing services showing the amount of such compensation with respect to each premium financing agreement and with respect to each financing schedule used by the agent or broker. The requirements of this subdivision shall not apply with respect to interest paid to the broker or agent by the premium financier based upon delay in payment of the premium due the insurer as permitted under subdivision (a) or (b) of Section 18628 of the Financial Code.

(b) The commissioner shall hold a hearing and adopt by regulation a standard procedure and form for making the disclosure to the insured required by subdivision (a).

(*Amended by Stats. 1983, Ch. 356, Sec. 5.*)

778.3. The amount of the periodic finance charges, if any, imposed for the premium financing purchased and the annual percentage rate associated with those charges shall be disclosed in the policy itself, or if arranged pursuant to a separate premium financing agreement in the premium financing agreement itself, and in the premium finance billings. If the finance charge is a fixed fee, regardless of the amount of the loan or the balance due, the disclosure is not required to include the annual percentage rate associated with those charges. This section shall not apply to any insurance policy or premium finance billing if the same information is otherwise disclosed to the insured as required by any other provision of state or federal law.

(*Added by Stats. 1999, Ch. 388, Sec. 1. Effective January 1, 2000.*)

778.4. (a) Every property broker-agent and every casualty broker-agent shall, prior to arranging premium financing for any new or renewal policy of insurance specified in Section 660, do all of the following:

- (1) Provide the applicant or prospective insured with any information that is required by the federal Truth in Lending Act (15 U.S.C. Sec. 1601 et seq.).

(2) Obtain the signature of the applicant or prospective insured on the following disclosure, which shall be in 10-point boldface type on a separate form or sheet of paper:

Some insurance companies and the California Automobile Assigned Risk Plan (CAARP) provide the opportunity to make payments on insurance premiums. Your agent or broker is required to disclose these options, if any are available for the insurance you are purchasing. If you choose to enter into a contract that provides for premium financing, your agent is required by law to make certain disclosures concerning interest, fees, or other charges. If your insurance has been financed by any person or business other than your insurance company, and your insurance is canceled for any reason, your loan may be subject to continued interest charges, or other charges that may result from delays by your insurance company in repaying the premium finance company. You should understand all of the charges associated with your financing plan. If you are uncertain about how the financing plan works, you should ask your insurance agent or broker.

(b) Every property broker-agent and every casualty broker-agent shall comply with the requirements of the Consumer Contract Awareness Act of 1990 (Title 1.86 (commencing with Section 1799.200) of Part 4 of Division 3 of the Civil Code) to the extent that its provisions are applicable to any transaction subject to this section.

(c) If a transaction subject to subdivision (a) is conducted over the telephone, the property broker-agent and the casualty broker-agent shall be deemed to have complied with the requirements of subdivision (a) if, within 72 hours after transacting the contract or agreement, the disclosure form and other information required by subdivision (a) is mailed to the applicant or insured at the address provided by the applicant or insured. Proof of mailing shall be established by the method described in Section 38.

(Amended by Stats. 2011, Ch. 411, Sec. 6. (AB 1416) Effective January 1, 2012.)