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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 8. Issue of Securities [820 - 860] (*Article 8 enacted by Stats. 1935, Ch. 145.*)

820. The terms used in this article shall be given the meanings herein set forth, but such meanings shall not, merely by reason of enactment in this article, govern the interpretation of any other provision of this code.

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

821. "Security" means every instrument commonly known by that term, except:

- (a) Commercial paper when issued, given or acquired in a bona fide way in the ordinary course of legitimate business, trade or commerce.
- (b) Promissory notes, whether secured or unsecured, if not offered to the public, and if not sold to an underwriter of the sale for the purpose of resale.
- (c) Mortgage participation certificates issued under and in accordance with the provisions of Chapter 2, Part 6, Division 2.
- (d) Policies of insurance issued by an insurer.

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

821.5. Without in any manner affecting the scope of the term "security" as set forth in section 821, and with the exceptions therein set forth, the following instruments are particularly specified as securities within the meaning of that section: every stock, bond, note, treasury stock, debenture, evidence of indebtedness, certificate evidencing a contribution, certificate of interest or participation, certificate of interest in a profit sharing agreement, collateral trust certificate, any transferable share, investment contract, or beneficial interest in title to property, contracts or earnings.

(Added by Stats. 1937, Ch. 725.)

822. Except as otherwise provided by this article, "sale" or "sell" means every disposition, or attempt or arrangement to dispose, of a security or interest in a security for value, whether done by direct or indirect means. A security is conclusively presumed to be sold for value if given with any purchase of any nature or if given as a bonus on account of a purchase. "Sale" or "sell" shall also mean a contract of sale, an exchange, any change in the rights, preferences, privileges or restrictions on outstanding securities, an attempt to sell, an option of sale, a solicitation of a sale, a subscription or an offer to sell directly or by an agent, or a circular letter, advertisement or otherwise.

(Amended by Stats. 1949, Ch. 256.)

823. (a) A privilege pertaining to a security giving the holder the privilege to convert such security into another security of the same insurer is not a sale of such other security.

(b) A right pertaining to a security and entitling the holder of such right to subscribe to another security of the same insurer is not a sale of such other security, but the sale of such other security upon the exercise of such right shall be subject to the provisions of this article.

(Amended by Stats. 1949, Ch. 256.)

824. "Broker" means every person, other than an agent, who in this state engages either wholly or in part in the business of (a) dealing in any security issued by others, (b) underwriting any issue of such securities, (c) purchasing such securities with the

purpose of reselling them, or (d) offering such securities for sale to the public. No authority to act as a broker may be implied from an appointment executed by an insurer appointing an agent of that insurer.

(Amended by Stats. 1991, Ch. 1040, Sec. 7.5.)

825. "Agent" means every person employed or appointed by an insurer or broker who, within this State and for a compensation, sells any security.

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

826. "Insurer" for the purposes of this article includes every organization organized for the purpose of assuming the risk of loss under contracts of insurance or reinsurance, and also includes any of the following organizations:

- (a) An admitted insurer,
- (b) A nonadmitted domestic insurer,
- (c) A nonadmitted foreign insurer,
- (d) A nonadmitted alien insurer,
- (e) An underwritten title company, or an organization organized for the purpose of doing an underwritten title business, whether licensed or not, and
- (f) An attorney in fact of a reciprocal or interinsurance exchange, whether it be admitted or not, or an organization organized for the purpose of acting as the attorney in fact of a reciprocal, or interinsurance exchange, whether the same be admitted or not.

"Insurer" shall not include, unless specified in subdivisions (a) through (f), inclusive, an organization, which though required to obtain a certificate or license from the commissioner, is organized or to be organized primarily for purposes other than assuming the risk of loss under contracts or agreements of insurance.

The amendments of this section by the Legislature at the 1965 Regular Session, except as they relate to underwritten title companies, attorneys in fact, and exclusive managers, shall be construed as a restatement and continuation of the law existing prior to such amendment. Every permit issued by the commissioner or the Commissioner of Corporations to an insurer as defined in this section prior to its amendment by the Legislature at 1965 Regular Session shall be valid and effective for all purposes stated therein, from the date of its issuance until the date of expiration stated therein.

Every permit issued by the commissioner under the authority of former subdivision (g) of this section from the date such subdivision became effective in 1965 until the effective date of the amendment to this section at the 1970 Regular Session of the Legislature shall be valid and effective for all purposes stated therein, from the date of its issuance until the expiration date specified therein.

(Amended by Stats. 1970, Ch. 301.)

827. An insurer shall not sell in this state, except upon a sale for delinquent assessment made in accordance with the provisions of Section 423 of the Corporations Code, or offer for sale, negotiate for the sale of, or take subscriptions for any security of its own issue until it shall have first applied for and secured from the commissioner a permit authorizing it so to do.

(Amended by Stats. 1978, Ch. 349.)

827.3. (a) As used in this section, the term "insurer" means an insurer which is domestic and admitted.

(b) The transactions of an insurer set out in subdivisions (c) and (d) are exempt from Section 827 if they meet all of the following requirements:

(1) They are not accompanied by an advertisement and no selling expenses have been given, paid, or incurred in connection therewith.

(2) No consideration has been given, paid, or incurred in connection with them.

(3) Within 30 days after the transaction, the insurer notifies the commissioner in writing of its occurrence. The notice shall describe the transaction, including the transaction date, the number and par value of shares issued, and the purpose of the transaction. The notice shall be executed under penalty of perjury.

(c) Par value increases resulting from a transfer of gross paid-in surplus to capital.

(d) Shares issued or distributed by an insurer as dividends to existing holders of shares of the insurer, on a pro rata basis according to the shares previously held by each holder, provided the new shares are of the same class and par value and have the same rights, preferences, privileges, and restrictions as the outstanding shares.

(e) Any transfer of surplus to paid-up capital pursuant to subsection (d) shall not be deemed consideration for purposes of this section.

(f) Notwithstanding this section, the applicable notice provisions, contained in subdivision (e) of Section 1215.4, shall apply to those transactions set forth in subdivision (d).

(Amended by Stats. 1996, Ch. 820, Sec. 1. Effective January 1, 1997.)

827.5. The term "insurer" as used in this section shall not include domestic insurers as defined in Section 26.

The following transactions of an insurer described in subdivisions (a), (c), (d), and (f) of Section 826 shall be exempt from the provisions of this article:

(a) Any negotiations or agreements prior to general solicitation for the approval of the shareholders of said insurer and subject to such approval, of a change in the rights, preferences, privileges or restrictions of or on outstanding securities or a merger, consolidation or sale of corporate assets in consideration of the issuance of securities.

(b) Any change in the rights, preferences, privileges, or restrictions of or on outstanding securities of such insurer, unless the holders of at least 25 percent of the outstanding shares or units of any class of securities which will be directly or indirectly affected substantially and adversely by such change have addresses in this state according to the records of such insurer; or

(c) Any exchange incident to a merger, a consolidation, an acquisition of outstanding stock, or a sale of corporate assets in consideration of the issuance of securities of another insurer or corporation, unless at least 25 percent of the outstanding shares of any class, the holders of which are to receive securities in the exchange of the surviving, consolidated, or purchasing corporation or insurer, are held by persons who have addresses in this state according to the records of such corporation or insurer of which they are shareholders.

(d) For the purposes of subdivision (b) and subdivision (c) of this section, (1) any securities held to the knowledge of the issuer in the names of a broker as defined in Section 824 or nominees of such broker and (2) any securities controlled by any one person who is not a resident of the State of California who controls directly or indirectly 50 percent or more of the outstanding securities of that class, shall not be considered outstanding. The determination of whether 25 percent of the outstanding securities are held by persons having addresses in this state, for the purposes of subdivision (b) and subdivision (c) of this section, shall be made as of the record date for the determination of the security holders entitled to vote on or consent to the action, if approval of such holders is required, or if not as of the date of directors' approval of such action.

(e) Any change (other than a stock split or reverse stock split) in the rights, preferences, privileges, or restrictions of or on outstanding shares, except the following if they materially and adversely affect any class of shareholders: (1) to add, change, or delete assessment provisions; (2) to change the rights to dividends thereon; (3) to change the redemption provisions; (4) to make them redeemable; (5) to change the amount payable on liquidation; (6) to change, add, or delete conversion rights; (7) to change, add, or delete voting rights; (8) to change preemptive rights; (9) to change, add, or delete sinking fund provisions; (10) to rearrange the relative priorities of outstanding shares; (11) to impose, change, or delete restrictions upon the transfer of shares in the articles of incorporation or bylaws; (12) to change the right of shareholders with respect to the calling of special meetings of shareholders; or (13) to change, add, or delete any rights, preferences, privileges, or restrictions of, or on, the outstanding shares or memberships of a mutual water company or other corporation organized primarily to provide services or facilities to its shareholders or members.

(f) Any stock split or reverse stock split, except the following: (1) any stock split or reverse stock split if the corporation has more than one class of shares outstanding and the split would have a material effect on the proportionate interests of the respective classes as to voting, dividends or distributions; (2) any stock split of a stock which is traded in the market and its market price as of the date of directors' approval of the stock split adjusted to give effect to the split was less than two dollars (\$2) per share; or (3) any reverse stock split if the corporation has the option of paying cash for any fractional shares created by such reverse split and as a result of such action the proportionate interests of the shareholders would be substantially altered. Any shares issued upon a stock split or reverse stock split exempted by this subdivision shall be subject to any conditions previously imposed by the commissioner applicable to the shares with respect to which they are issued.

(g) Any change in the rights of outstanding debt securities, except the following if they substantially and adversely affect any class of securities: (1) to change the rights to interest thereon; (2) to change their redemption provisions; (3) to make them redeemable; (4) to extend the maturity thereof or to change the amount payable thereon at maturity; (5) to change their voting rights; (6) to change their conversion rights; (7) to change sinking fund provisions; or (8) to make them subordinate to other indebtedness.

(Added by Stats. 1977, Ch. 1020.)

827.6. Any offer or sale of voting common stock by an insurer incorporated in this state shall be exempt from the provisions of this article if, immediately after the proposed sale and issuance, there will be only one class of stock of such insurer outstanding which is owned beneficially by no more than one domestic insurer, providing all of the following requirements have been met:

(1) All such stock shall be evidenced by certificates which have been stamped or printed prominently on their face a legend in a form to be prescribed by rule of the commissioner restricting the transfer of such stock in such manner as the rule provides.

(2) The offer and sale of such stock is not accompanied by the publication of any advertisement, and no selling expenses have been given, paid, or incurred in connection therewith.

(3) The consideration to be received by the issuer for the stock to be issued shall consist of only cash or cancellation of indebtedness for money borrowed or both upon the initial organization of the issuer, provided all such stock is issued for the same price per share.

(4) No promotional consideration has been given, paid, or incurred in connection with such issuance. Promotional consideration means any consideration paid directly or indirectly to a person who, acting alone or in conjunction with one or more other persons, takes the initiative in founding and organizing the business or enterprise of the issuer, for services rendered in connection with such founding or organizing.

(Added by Stats. 1980, Ch. 262, Sec. 2.)

827.7. Where required by this article the commissioner is authorized to issue subscription and preorganization permits of and pertaining to insurers or proposed insurers. Applications for such permits shall set forth such of the matters described in Sections 834, 835, 836 and 837 as the commissioner deems appropriate or requires.

(Added by Stats. 1965, Ch. 1569.)

827.8. An offer or sale of voting common stock or preferred stock of and by a foreign or alien insurer to property broker-agents or casualty broker-agents, as defined in Section 33.5, shall be exempt from the requirements of this article if all of the following requirements are met:

(a) The sale shall not be made to more than 35 property broker-agents and casualty broker-agents in the State of California.

(b) Each property broker-agent and each casualty broker-agent to whom an offer is made is an "accredited investor" as defined in Regulation D under the Federal Securities Act of 1933, as amended.

(c) Each property broker-agent and each casualty broker-agent to whom an offer is made meets all of the following requirements:

(1) The broker-agent shall have been appointed by the admitted insurer for a period of at least one year and that admitted insurer shall meet all of the following requirements:

(A) Be authorized to transact property and casualty insurance. For purposes of this section, property and casualty insurance means insurance falling within classes 2, 3, 7, 8, 10, 11, 12, 14, 15, 16, 18, and 20 under Section 100 except home protection contracts, as defined in Section 12740.

(B) Have at least four hundred million dollars (\$400,000,000) of statutory capital and surplus.

(C) Hold a certificate of authority in good standing with this state and have no regulatory action relating to financial hazard or fraud against the company in the last three years from states, including this state, where the insurer is authorized as an admitted insurer to do business.

(D) Is currently reinsuring or has definite plans to reinsure business produced by that broker-agent with the same foreign or alien insurer offering securities to the broker-agent.

(2) The broker-agent generates five million dollars (\$5,000,000) in premiums per year and plans on transferring or writing at least one million dollars (\$1,000,000) per year with the admitted insurer.

(3) The broker-agent shall pay at least fifty thousand dollars (\$50,000) for the securities purchased in the transaction but not in excess of five hundred thousand dollars (\$500,000).

(4) The broker-agent shall have a net worth of at least five million dollars (\$5,000,000).

(d) The offer and sale of stock is accompanied by the prospectus, private placement memorandum, together with any other information required pursuant to Regulation D of the Federal Securities Act of 1933.

(e) The consideration received by the issuer for the stock to be issued consists solely of cash.

(f) No promotional consideration or selling expenses have been given, paid, or incurred in connection with the issuance of stock, and the offer and sale of stock is not accompanied by the publication of any advertisement.

(g) All stock issued shall be evidenced by a certificate that shall have a notice printed prominently on its face restricting the transfer of the stock solely to the issuer or investors who have been shareholders of the issuer for at least three years and who are approved

by at least 51 percent of the members of the board of directors of the issuer.

(h) The issuer of both the common and preferred stock shall be all of the following:

- (1) A foreign or alien insurer that does not transact insurance directly in California, but is solely a reinsurer.
- (2) A reinsurer that only reinsures commercial lines property and casualty insurance, as specified in subparagraph (A) of paragraph (1) of subdivision (c).

(Amended by Stats. 2011, Ch. 411, Sec. 7. (AB 1416) Effective January 1, 2012.)

828. Except in the case of a broker holding a broker's certificate issued by the commissioner under this code or by the Commissioner of Financial Protection and Innovation under the Corporate Securities Law of 1968 (Division 1 (commencing with Section 25000) of Title 4 of the Corporations Code) and then in effect, a person, desiring or proposing to sell a security to be issued by any insurer, shall not issue, circulate, or publish any advertisement, pamphlet, prospectus, or circular concerning that security until the insurer secures from the commissioner a permit authorizing it to sell the security.

(Amended by Stats. 2022, Ch. 452, Sec. 194. (SB 1498) Effective January 1, 2023.)

829. A person shall not issue, circulate, or publish any advertisement or writing concerning any security sold by him, unless either his name is subscribed thereto, and a true copy thereof is filed in the office of the commissioner at least one day prior to the issue, publication, or circulation, or the commissioner first authorizes or consents to the issuance, circulation or publication.

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

830. A person shall not issue, circulate, or publish any such advertisement or writing after receipt of notice in writing from the commissioner that, in his opinion, the same contains any statement that is false or misleading or otherwise likely to deceive a reader thereof.

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

831. Every security issued by any insurer without a permit of the commissioner authorizing the same in effect at the time of the issue, shall be void. Every security issued by any insurer under a permit of the commissioner shall be void unless its provisions conform to the provisions, if any, required by the permit.

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

831.1. Every security of a home protection company issued or authorized to be issued prior to December 31, 1978, shall be valid even though it has been issued without a permit of the commissioner authorizing the same if, at the time of the issue or authorization, the security was qualified or exempt from qualification under the Corporate Securities Law of 1968 (Title 4, Division 1 of the Corporations Code).

Any sale, transfer, hypothecation, or other distribution of a security whose issuance is validated by this section, whether such transaction takes place before or after the effective date of this section is not prohibited by the provisions of this article.

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

832. Every insurer that commits any of the following acts is guilty of a public offense and punishable by fine not exceeding ten thousand dollars:

- (a) Selling or causing to be issued a security contrary to the provisions of this article or not in conformity with the permit of the commissioner.
- (b) Applying any of the proceeds of sale of a security to any purpose other than as specified in the permit, or to a purpose specified in the permit, but in excess of the amount limited for that purpose.

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

833. Every person who commits any of the acts specified in this section is guilty of a public offense and punishable by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or in a county jail not exceeding one year, or by both that fine and imprisonment.

(a) Knowingly authorizing, directing, aiding, causing, or assisting in causing the issuance, execution, or sale of, any security, in nonconformity with a permit of the commissioner then in effect and authorizing such issuance, or contrary to the provisions of this article.

(b) Knowingly making any false statement or representation in any application to the commissioner, or in any proceeding before him, or in any examination, audit, or investigation made by him, or by his authority.

- (c) With knowledge of the falsity, causing to be filed in the office of the commissioner any false statement or representation concerning an insurer, the property which the insurer then holds or proposes to acquire, the insurer's officers, the insurer's financial condition or other affairs, or the insurer's proposed plan of business.
 - (d) With knowledge of the falsity of any such statement or representation, causing any security to be issued, executed, or sold without first informing the commissioner of the falsity of such statement in writing.
 - (e) Directly or indirectly, knowingly causing or assisting in causing any part of the proceeds from the sale of any security to be applied to any purpose contrary to the provisions of the permit authorizing the issuance of such security, or to any purpose in excess of the amount specified in such permit for such purpose.
 - (f) Selling a security with knowledge that it has been issued or executed in violation of any of the provisions of this article.
 - (g) Causing a writing concerning a security to be issued, circulated, or published while having knowledge that such matter contains any statement that is false, misleading, or otherwise likely to deceive a reader thereof.
 - (h) In any respect, willfully violating or failing to comply with any of the provisions of this article.
 - (i) In any other respect, willfully violating or neglecting to comply with any part of an order or permit of the commissioner under the provisions of this article.
 - (j) Conspiring with one or more other persons to violate any permit or order issued by the commissioner, or any of the provisions of this article.
- (Amended by Stats. 2011, Ch. 15, Sec. 207. (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.)*

834. The application for a permit to issue or sell securities shall be verified as provided in the Code of Civil Procedure for the verification of pleadings, and shall be filed on 8¹/₂ x 11 inch size paper in the office of the commissioner. In the application the applicant shall set forth:

- (a) The names and addresses of its officers.
- (b) The location of its office.
- (c) An itemized account of its financial condition, including the amount and character of its assets and liabilities.
- (d) A detailed statement of the plan upon which it proposes to transact business.
- (e) A copy of any security it proposes to issue.
- (f) A copy of any contract it proposes to make concerning the same.
- (g) A copy of any prospectus or advertisement, or other description of such securities, then prepared by it for distribution or publication.
- (h) Such additional information concerning the company, its condition and affairs as the commissioner requires.

(Amended by Stats. 1995, Ch. 721, Sec. 1.5. Effective January 1, 1996.)

835. If the applicant is a partnership, unincorporated association, or joint stock company, it shall file with its application a copy of its articles of partnership or association, and all other papers pertaining to its organization.

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

836. If the applicant is a corporation, it shall file with its application a copy of all minutes of any proceedings of its directors, stockholders, or members, relating to or affecting the issue of such securities, and also a copy of its articles of incorporation, by-laws, and any amendments to either thereof.

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

837. If the applicant is a foreign corporation or association, it shall also file with its application:

- (a) A certificate of the proper officer of the jurisdiction in which it is organized, executed not more than 30 days before the filing of such application, showing that the applicant is authorized to transact business in that jurisdiction.
- (b) In such form as the commissioner prescribes, its written instrument, irrevocably appointing the commissioner and his successor in office its true and lawful attorney upon whom all process in any action or proceeding against it can be served. Such service shall have the same effect as if the applicant was a domestic insurer lawfully served with process in this State.

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

838. Upon the filing of such application, the commissioner shall examine it and the other papers and documents filed therewith. He may, if he deems it advisable, cause to be made a detailed examination, audit, and investigation of the applicant and its affairs.

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

838.5. Pursuant to this code, the commissioner has been and is authorized, in the instance of an application for a permit to issue securities in exchange for one or more bona fide outstanding securities, claims or property interest, or partly in such exchange and partly for cash, to approve the terms and conditions of such issuance and exchange and the fairness of such terms and conditions, after a hearing upon the fairness of such terms and conditions, to which all persons to whom it is proposed to issue securities in such exchange shall have the right to appear.

(Amended by Stats. 1978, Ch. 795.)

839. The commissioner shall issue a permit if he finds that:

(a) The proposed plan of business of the applicant and the proposed issuance of securities are fair, just, and equitable.

(b) The applicant intends fairly and honestly to transact its business, and

(c) The securities the applicant proposes to issue and the methods to be used by it in issuing or disposing of them are such as, in his opinion, will not work a fraud upon the purchaser thereof, or upon policyholders or other security holders of applicant.

Otherwise, he shall deny the application and notify the applicant in writing of his decision.

(Amended by Stats. 1965, Ch. 1568.)

839.1. (a) In any case where a domestic insurer is directly affected by the total transaction for some part of which the permit applied for is needed, and the commissioner in his discretion determines that reasonable grounds exist for contentions that such total transaction or any part thereof:

(1) Is a combination of capital, skill, or acts to create or carry out restrictions on or to prevent competition in the insurance business; or

(2) Is a combination (in the form of a trust or otherwise) in restraint of the insurance business; or

(3) Is an attempt to monopolize the insurance business; or

(4) Is a conspiracy to create any of the foregoing; or

(5) That such total transaction, or any part thereof, if consummated will create or result in any of the foregoing or will substantially lessen competition in the insurance business.

Then, in such event, the Insurance Commissioner may make findings with respect to whether such total transaction, or any part thereof, would or would not do or be any of the foregoing.

(b) In the event the Insurance Commissioner makes affirmative findings as provided in subdivision (a) of this section, he may deny the permit applied for.

(Added by Stats. 1965, Ch. 1568.)

839.5. The commissioner shall not issue a permit for the sale of any securities of a domestic insurer in any case where he finds that the expense of organization, exclusive of attorney fees, accountant fees, and actuary fees, will exceed 12 percent of the total amount actually paid for the capital stock.

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

840. The commissioner may prescribe in the permit the amounts, considerations, terms, and conditions governing the issue and disposal of the securities and the permit authorizes such issue and disposal only in accordance with its provisions.

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

841. Every permit shall recite in bold type that the issuance thereof is permissive only and does not constitute a recommendation or endorsement of the securities permitted to be issued.

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

842. The commissioner may impose conditions requiring the deposit in escrow of securities and the impoundment of the proceeds from the sale thereof, limiting the expense in connection with the sale thereof, and otherwise requiring such method of dealing as he deems reasonable and either necessary or advisable to insure the disposition of the proceeds of such securities in the manner and for the purposes provided in the permit.

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

843. The commissioner may, from time to time and for cause, amend, alter or revoke any permit issued by him hereunder, or temporarily suspend the rights thereunder of the applicant. He also may establish such rules and regulations as are reasonable or necessary to carry out the purposes and provisions of this article.

In establishing any such rules and regulations the commissioner is expressly authorized, irrespective of the other provisions of this section or this article, to specify different and simplified forms for both applications and permits where a foreign insurer, whether admitted or not, is seeking to sell or issue securities of its own issue to persons in this state and meets all the following standards:

- (a) It has, prior to filing the application, made a filing with the Securities and Exchange Commission;
- (b) It (or a predecessor) has been lawfully engaged in the insurance business for at least five years and currently is admitted to transact insurance in at least five states;
- (c) It currently has admitted assets of at least five million dollars (\$5,000,000); and
- (d) It has, prior to filing the application, obtained a written permit or consent to issue such securities from the authority in its domiciliary state having jurisdiction over issuances of its securities and the statutory standards for obtaining such permit or consent are comparable to the like standards of this state.

(Amended by Stats. 1965, Ch. 372.)

844. Every insurer authorized by the commissioner to sell securities shall thereafter, at such times and in such form as he requires, make and file in his office a report, setting forth:

- (a) The securities sold by it under the authority of any permit issued by him.
- (b) The proceeds derived therefrom.
- (c) The disposition of such proceeds.
- (d) Such other information concerning its property, officers, or affairs, and relating to or affecting the value of such securities, as the commissioner requires.

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

845. (a) A person shall not sell or resell any security of a domestic, foreign, or alien insurer:

- (1) As an insurer with respect to securities of its own issue without securing the permit of the commissioner as provided in this article.
- (2) As an agent of that insurer except under authority of a certificate issued by the commissioner under this code.
- (3) As a broker or as an agent for a broker except under authority of a certificate or license issued by the Commissioner of Financial Protection and Innovation under the provisions of the Corporations Code and in full conformity with all provisions of the Corporations Code.

(b) Subdivision (a) shall not prohibit a bona fide owner of securities of an insurer from selling or reselling those securities if:

- (1) The securities were originally issued under the authority of a permit of the commissioner and the sale or resale is made in conformity with the conditions, if any, in the permit effective at the time of sale or resale; or
- (2) The securities were originally issued in a jurisdiction other than California in full conformity with the applicable laws, if any, governing the issuance in that jurisdiction.

A sale or resale of securities of an insurer by the owner of the securities which is made for the purpose of evading the provisions of this article requiring an insurer to secure a permit from the commissioner or for any other fraudulent purpose shall, however, be null and void and a violation of the criminal provisions of this article.

(c) Any sale or resale permitted by this section is subject to the stop power of the commissioner under Section 854 and the similar powers of the Commissioner of Financial Protection and Innovation pursuant to the provisions of the Corporations Code.

(d) Any violation of this section is subject to the penalties provided in Section 833.

(Amended by Stats. 2022, Ch. 452, Sec. 195. (SB 1498) Effective January 1, 2023.)

845.5. The certificate required by Section 845 to act as an agent of an insurer shall be secured as provided in Section 846 and shall expire on the first day of July after its issue, unless sooner suspended or revoked.

The permission granted by Section 845 to persons holding certificates or licenses issued by the Commissioner of Financial Protection and Innovation does not affect the provisions of this article requiring that an insurer and that an agent appointed by an insurer secure a permit or certificate from the commissioner to issue, sell, or resell securities and the issue, sale, or resale and the advertising thereof is subject to the provisions of this article, nor does that section permit an owner of securities to sell or resell the same except in conformity with that section and this article.

(Amended by Stats. 2022, Ch. 452, Sec. 196. (SB 1498) Effective January 1, 2023.)

846. To secure such certificate, the applicant shall make and file in the office of the commissioner an application therefor in writing, verified by or in behalf of the applicant. Such application shall set forth:

- (a) The name and address of the applicant.
- (b) 1. In the case of an applying corporation, association or joint stock company, the name and address of each of its managing officers and managing agents.
- 2. In the case of an applying partnership, the name and address of each of the partners.
- (c) A succinct statement of facts showing possession of a good business reputation:
 - 1. By the applicant.
 - 2. In the case of an applicant corporation, association, or joint stock company, by its managing officers and managing agents.
 - 3. In the case of an applicant partnership, by its members.
- (d) If the applicant is a broker, the general plan and character of the business of the applicant.
- (e) Such other information as the commissioner requires.

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

847. At the time of filing an application for a broker's certificate, the applicant shall file with the commissioner a bond for five thousand dollars, payable to the people of the State of California, for the use and benefit of any interested person, to be approved by the commissioner. The bond shall be conditioned upon the following conduct by the broker, the broker's agents, and employees:

- (a) Strict compliance with the provisions of this article.
- (b) Honest and faithful application of all funds received.
- (c) Honest and faithful performance of all obligations and undertakings in the purchase or sale of securities.
- (d) Payment of all damages suffered by any person damaged or defrauded by reason of the violation of any of the provisions of this article, or by reason of any fraud connected with or growing out of any transaction contemplated by the provisions of this article.

(Amended by Stats. 1982, Ch. 517, Sec. 278.)

850. If the applicant is a foreign corporation or association, it shall file with its application:

- (a) A copy of its articles of incorporation or association.
- (b) A certificate of the proper officer of the jurisdiction in which it is organized, executed not more than thirty days before the filing of such application, showing that the applicant is authorized to transact business in that jurisdiction.
- (c) In such form as the commissioner prescribes, its written instrument irrevocably appointing the commissioner and his successor in office its true and lawful attorney upon whom all process in any action or proceeding against it, arising out of or founded upon the fraud of such applicant in the sale of securities within this State, or in any action upon any bond provided by this article, can be served. Such service shall have the same effect as if the applicant was a domestic corporation or association lawfully served with process in this State.

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

851. The commissioner shall examine such application, and shall make such further investigation of the applicant and its affairs as he deems advisable. He shall issue the certificate if, from such examination, the commissioner is satisfied that:

- (a) The business reputation of the applicant and, in the case of a firm or corporation, its officers or members, is good.
- (b) The sale of the securities proposed to be sold by it would not be unfair, unjust or inequitable to the purchasers thereof.
- (c) Neither it nor its officers or members have violated any of the provisions of this article.

(d) Neither it nor its officers or members have engaged or are about to engage in any fraudulent transaction.

Otherwise, he shall deny the application and notify the applicant of his decision.

Where a hearing is held under this section 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. 1945, Ch. 901.)

852. The commissioner may at any time in accordance with the procedure provided in Section 1738 suspend or revoke any broker's or agent's certificate issued by him if he finds that the holder thereof is of bad business repute, or has violated any provision of this article, or has engaged, or is about to engage in any fraudulent transaction.

(Amended by Stats. 1961, Ch. 280.)

853. Every broker shall, at such times as the commissioner requires, make and file in the office of the commissioner a true and correct statement concerning any security sold or offered for sale by the broker. The statement shall show:

(a) The name and location of the principal office of the issuer of such security.

(b) The names of the issuer's managing officers if it is a corporation, or of its members if it is a partnership.

(c) The issuer's assets, liabilities, and issued capital stock, at the close of its fiscal year then last ended, or at a later date.

(d) The issuer's gross income, expenses, and fixed charges for the year next preceding such date, or for such time as such issuer of such security has transacted business, if for less than one year.

(e) The approximate price at which the broker has sold or proposes to sell such security.

(f) Such other information, of which the broker has knowledge, as the commissioner requires.

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

854. After receipt of notice in writing from the commissioner, stating that the sale of a security would, in the commissioner's opinion, be unfair, unjust, or inequitable to the purchaser, no broker shall sell such security until and unless the commissioner in writing withdraws the objection.

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

855. All writings filed with the commissioner under this article shall be open to public inspection except where, in his judgment, the public welfare or the welfare of any insurer demands that any portion of such information be not made public. In such cases he may, in his discretion, withhold such information from public inspection for such time as in his judgment is necessary.

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

856. (a) The commissioner may at any time give or make public any information concerning any insurer, if in the commissioner's judgment, the giving or publishing of the information will be of public interest.

(b) The commissioner may at any time give or make public any information concerning securities purchased or sold within this state by an insurer, if in the commissioner's judgment, the giving or publishing of the information is in the public interest or it will tend to prevent the fraudulent purchase or sale of the securities.

(Amended by Stats. 1990, Ch. 1300, Sec. 1.)

857. The commissioner shall charge and collect the following fees:

(a) For filing an original or supplemental application, or any amendments thereto, for a permit to issue securities, four thousand two hundred thirty-three dollars (\$4,233) except for applications for a permit to issue securities evidencing any change in rights, preferences, privileges, or restrictions on outstanding securities, or for applications for a permit to issue securities evidencing only a share dividend or a share split.

(b) For filing an application for a permit to issue securities evidencing any change in the rights, preferences, privileges, or restrictions on outstanding securities, five hundred sixty-seven dollars (\$567).

(c) For filing an application for a permit to issue securities evidencing a share dividend or a share split, one thousand four hundred ten dollars (\$1,410).

(d) For filing an application for any other kind of permit, such as an application, for the issuance of a preorganizational or a negotiating permit, an application for a permit to issue options for securities, but not for the securities themselves, or any application for an amendment to an existing permit to issue securities, two hundred eighty-three dollars (\$283).

(e) An original or supplemental application shall not be amended after the permit sought thereby or by amendment thereto has been issued or denied.

(Amended by Stats. 2017, Ch. 534, Sec. 10. (AB 1699) Effective January 1, 2018.)

859. The commissioner shall also collect the following fees:

(a) For filing any application for a broker's certificate, two hundred eighty-three dollars (\$283) for the first office or location plus one hundred thirty-six dollars (\$136) for each additional office or location.

(b) For filing any application for an agent's certificate, one hundred thirty-six dollars (\$136).

(c) For an examination, audit, or investigation, the actual amount of expenses reasonably incurred in the performance of the work, plus the following:

(1) If made by an employee of the commissioner, the actual amount of the compensation paid to that employee for that time.

(2) The amount of the usual cost to the state of typing, transcribing, or otherwise preparing any written report of that examination, audit, or investigation that may reasonably be needed in the discharge of the commissioner's duties.

(Amended by Stats. 2017, Ch. 534, Sec. 11. (AB 1699) Effective January 1, 2018.)

860. No fees shall be charged or collected for copies of papers, records, or official documents furnished to public officers for use in their official capacity or for the reports of the commissioner in the ordinary course of distribution.

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