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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 5. Production Agencies [1621 - 1758.993] (*Chapter 5 repealed and added by Stats. 1959, Ch. 4.*)

ARTICLE 1. Definitions [1621 - 1624] (*Article 1 added by Stats. 1959, Ch. 4.*)

1621. An insurance agent is a person who transacts insurance, other than life, disability, or health insurance, on behalf of an admitted insurance company. The term "insurance agent" as used in this chapter does not include a life agent as defined in this article.

(Amended by Stats. 2010, Ch. 400, Sec. 6. (AB 2782) Effective January 1, 2011.)

1622. (a) A life and accident and health or sickness licensee is a person authorized to act on behalf of a life insurer or a disability insurer to transact any of the following:

- (1) Life insurance.
- (2) Accident and health insurance.
- (3) Life and accident and health or sickness insurance.

(b) Licenses to act as a life and accident and health or sickness agent under this chapter shall be of the types set forth in Section 1626.

(Amended by Stats. 2020, Ch. 184, Sec. 7. (SB 1255) Effective January 1, 2021.)

1623. (a) An insurance broker is a person who, for compensation and on behalf of another person, transacts insurance other than life, disability, or health insurance with, but not on behalf of, an admitted insurer. It shall be presumed that the person is acting as an insurance broker if the person is licensed to act as an insurance broker, maintains the bond required by this chapter, and discloses, in a written agreement signed by the consumer, all of the following:

- (1) That the person is transacting insurance on behalf of the consumer.
- (2) A description of the basic services the person will perform as a broker.
- (3) The amount of all broker fees being charged by the person.
- (4) If applicable, the fact that the person may be entitled to receive compensation from the insurer, directly or indirectly, for the consumer's purchase of insurance as a consequence of the transaction.

(b) If a transaction involves both a retail broker and a wholesale intermediary broker, the wholesale intermediary broker shall be deemed to have satisfied its disclosure obligations under this section if it provides written disclosure to the retail broker of the criteria set forth in paragraphs (2), (3), and (4) of subdivision (a).

(c) The presumption of broker status is rebutted as to any transaction in the admitted market in which any of the following is present:

(1) The licensee is appointed, pursuant to Section 1704, as an agent of the insurer for the particular class or type of insurance being transacted.

(2) The licensee has a written agreement with an insurer containing express terms that authorize the licensee to obligate the insurer without first obtaining notification from the insurer that the insurer has accepted, conditionally or unconditionally, the

submitted risk.

(3) The licensee is authorized, pursuant to a written agreement with an insurer, to appoint other licensees as agents of the insurer, pursuant to Section 1704.

(4) The licensee is authorized, pursuant to a written agreement with an insurer, to pay claims on behalf of the insurer.

(d) In all other cases, the presumption of broker status is rebutted based on the totality of the circumstances indicating that the broker-agent is acting on behalf of the insurer.

(e) For purposes of this section, "totality of the circumstances" means evidence indicating whether a broker-agent was acting on behalf of the insurer or was acting on behalf of a third person. In determining the totality of circumstances, all relevant facts and circumstances shall be reviewed and the review is not limited to any particular fact or factors and this section does not require that any particular circumstance receive greater or lesser weight.

(Amended by Stats. 2010, Ch. 400, Sec. 7. (AB 2782) Effective January 1, 2011.)

1624. "Insurance solicitor" means a natural person employed to aid a property and casualty broker-agent acting as an insurance agent or insurance broker in transacting insurance other than life, disability, or health.

(Amended by Stats. 2013, Ch. 321, Sec. 13. (AB 1391) Effective January 1, 2014.)