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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 Production Agencies [1621 - 1758.993] (*Chapter 5 repealed and added by Stats. 1959, Ch. 4.*)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 9. Issuance of Licenses [1702 - 1707.7] (*Article 9 added by Stats. 1959, Ch. 4.*)

1702. All licenses issued pursuant to this chapter shall be issued to the holder thereof.

(Amended by Stats. 1973, Ch. 543.)

1703. Every applicant for an original license under this chapter, Chapter 5A (commencing with Section 1759), Chapter 6 (commencing with Section 1760), or Chapter 7 (commencing with Section 1800) shall, as part of the application, endorse an authorization for disclosure to the commissioner of financial records of any fiduciary funds as defined in Section 1733, pursuant to Section 7473 of the Government Code. The authorization shall continue in force and effect for so long as the licensee continues to be licensed by the department.

(Amended by Stats. 2008, Ch. 300, Sec. 4. Effective January 1, 2009.)

1704. (a) Any person acting as a licensee under this chapter shall not act as an agent of an insurer unless the insurer has filed with the commissioner a notice of appointment, executed by the insurer, appointing the licensee as the insurer's agent. Every property broker-agent, casualty broker-agent, personal lines broker-agent, or limited lines automobile insurance agent acting in the capacity of an insurance solicitor shall have filed on his or her behalf with the commissioner a notice executed by an insurance agent or insurance broker appointing and agreeing to employ the solicitor as an employee within this state. Additional notices of appointment may be filed by other insurers before the license is issued and thereafter as long as the license remains in force. The authority to transact insurance given to a licensee by an insurer, property broker-agent, casualty broker-agent, personal lines broker-agent, or limited lines automobile insurance agent, as the case may be, by appointment shall be effective as of the date the notice of appointment is signed. That authority to transact shall apply to transactions occurring after that date and for the purpose of determining the insurer's, property broker-agent's, casualty broker-agent's, personal lines broker-agent's, or limited lines automobile insurance agent's liability for acts of the appointed licensee. No notice of appointment of a life agent, property broker-agent, casualty broker-agent, personal lines broker-agent, limited lines automobile insurance agent, or travel insurance agent shall be filed under this subdivision unless the licensee being appointed has consented to that filing. Each appointment made under this subdivision shall by its terms continue in force until:

(1) The cancellation or expiration of the license applied for or held at the time the appointment was filed.

(2) The filing of a notice of termination by the insurer or employing property broker-agent or casualty broker-agent, or by the appointed life agent, property broker-agent, casualty broker-agent, travel insurance agent, or insurance solicitor.

(b) Upon the termination of all appointments, or all endorsements naming the licensee on the license of an organization licensee, and the cancellation of the bond required pursuant to Section 1662 if acting as a broker, the permanent license shall not be canceled, but shall become inactive. It may be renewed pursuant to Section 1718. It may be reactivated at any time prior to its expiration by the filing of a new appointment pursuant to this section, Section 1707, and Section 1751.3, or the filing of a new bond pursuant to Section 1662. An inactive license shall not permit its holder to transact any insurance for which a valid, active license is required.

(c) Upon the termination of all appointments of a person licensed under a certificate of convenience, that certificate shall be canceled and shall be returned by its lawful custodian to the commissioner.

(d) A property broker-agent or a casualty broker-agent appointing an insurance solicitor pursuant to this section, if a natural person, shall be the holder of a permanent license to act as such a broker-agent or the holder of a certificate of convenience so to act issued

pursuant to either subdivision (a) or (b) of Section 1685. If the property broker-agent or the casualty broker-agent is an organization, it shall be the holder of a permanent license.

(e) The filing of an incomplete or deficient action notice with the department shall require the filing of an amended, complete action notice, together with the payment of the fee therefor specified in subdivision (l) of Section 1751.

(f) A notice of appointment appointing a solicitor may be filed by a second or subsequent property broker-agent or casualty broker-agent. The broker-agent seeking to appoint the solicitor shall enter into an agreement with all other property broker-agents and casualty broker-agents with whom the insurance solicitor has an existing appointment. The agreement shall govern how the broker-agents will determine on which property broker-agent's or casualty broker-agent's behalf the solicitor is working when dealing with individuals who are customers of none of the property broker-agents and casualty broker-agents with whom the solicitor has an appointment. If the agreement does not identify which broker-agent or broker-agents are liable for the act of the solicitor, all property broker-agents and casualty broker-agents with whom the solicitor is appointed at the time of the act shall be jointly and severally liable for that act.

(Amended by Stats. 2012, Ch. 786, Sec. 29. (AB 2303) Effective January 1, 2013.)

1704.5. (a) Except as provided in subdivision (b), a licensed life agent may present a proposal for insurance to a prospective policyholder on behalf of a life insurer for which the life agent is not specifically appointed, and may also transmit an application for insurance to that insurer. If a policy of insurance is issued pursuant to that application, the insurer is considered to have authorized the agent to act on its behalf, and the insurer is responsible for all actions of the agent that relate to the application and policy as if the agent had been duly appointed for the insurer. Not more than 14 days after the life agent submits an application for insurance to the insurer for which the insurer issues a policy, the insurer shall forward to the commissioner a notice of appointment of the life agent as the insurer's agent in accordance with the requirements of this article. Nothing in this section obliges an insurer to accept an application for underwriting from a life agent. Any payments made by the prospective policyholder prior to issuance of the policy shall be made only in the form of a draft, check, cashier's check, traveler's check, money order, or similar instrument made payable to the insurer to which the application is transmitted.

(b) A licensed life agent who is not specifically appointed for a particular life insurer may not (1) present a proposal to a prospective policyholder for insurance with that insurer or (2) transmit an application for insurance to that insurer if the insurer requires all its life agents to represent only that insurer or a group of affiliated insurers of which that insurer is a member or to submit risks to that insurer or group of affiliated insurers prior to submitting them to other insurers.

(Amended by Stats. 1990, Ch. 1420, Sec. 39. Operative January 1, 1992, by Sec. 77 of Ch. 1420.)

1705. An insurer, or employing property broker-agent or casualty broker-agent, by filing a notice of appointment on behalf of an applicant for an original license pursuant to Section 1704, and who is not then licensed pursuant to this chapter or Chapter 6 (commencing with Section 1760), Chapter 7 (commencing with Section 1800), shall be deemed by that act to have declared that:

(a) The applicant is of good reputation.

(b) The applicant is worthy of the license sought.

An insurer, property broker-agent, or casualty broker-agent, by filing a notice of appointment on behalf of an applicant for an original license to act as a life agent, property broker-agent, casualty broker-agent, or insurance solicitor, where the applicant for any reason will not be issued a certificate of convenience pending examination under Article 8 (commencing with Section 1685), shall be deemed to have declared that the applicant has had experience or instruction in classes of insurance, the transaction of which is authorized by the license sought, or will be given the necessary instruction within 30 days after the issuance of the license.

Should the applicant for a life agent, property broker-agent, or casualty broker-agent license be a copartnership, corporation, or association, the insurer filing the appointment shall be deemed to have made the declarations set forth in subdivisions (a) and (b) of this section as regards both the business organization and each natural person whose name appears in the application as one to exercise the agency powers of the license sought. The insurer shall be deemed to have made the declaration in the preceding paragraph only as regards the natural person or persons to be named on the organization's license initially.

Whenever a copartnership, corporation, or association licensed as a life agent, property broker-agent, or casualty broker-agent files to add to any such license the name of a natural person to exercise the agency powers thereunder, the business organization shall be deemed to have made the appropriate declarations regarding the natural person, as set forth in this section, as are required of an insurer filing a notice of appointment on behalf of an applicant for an original license.

(Amended by Stats. 2011, Ch. 411, Sec. 24. (AB 1416) Effective January 1, 2012.)

1707. Except as otherwise provided in Section 1704.5, each notice of appointment or notice of termination of appointment filed pursuant to this article shall be filed on forms prescribed by the commissioner within 15 days of appointment or termination.

(Amended by Stats. 2006, Ch. 740, Sec. 7. Effective January 1, 2007.)

1707.5. The commissioner in lieu of retaining in his or her files a copy of the notices of appointment or notices of termination described in Section 1707, if he or she has made entry of the facts pertaining to the appointments or terminations or the statements, including the cancellation, if any thereof, in some portion of his or her official records, may at any time thereafter destroy the documents. The commissioner's certification as to the content of such an entry shall be competent evidence of the facts therein stated for any purpose in any court or administrative action or proceeding and shall be accepted in lieu of the actual documents.

(Amended by Stats. 1990, Ch. 1420, Sec. 42. Operative January 1, 1992, by Sec. 77 of Ch. 1420.)

1707.51. (a) Notwithstanding any other provision of law, qualified applicants who applied in proper form and requested an examination date for a property, casualty, or life insurance license prior to December 1, 1991, shall be provided the opportunity to qualify for licensure under statutory licensure provisions in effect on December 31, 1991.

(b) The department may require the applicant to execute a sworn statement subject to a penalty of perjury and denial of license declaring that they meet the qualifications set forth in subdivision (a). The department shall provide public notice as to the availability of these tests and as to the procedure and requirements necessary to qualify for the test. The tests shall be administered within 90 days of enactment of this section.

(Amended by Stats. 2011, Ch. 411, Sec. 25. (AB 1416) Effective January 1, 2012.)

1707.7. As part of the report required under Section 12922, the commissioner shall provide the following information for the previous calendar year ending December 31 for five years after the operative date of this section:

(a) The total number of applications filed for a property and casualty broker-agent license, a property broker-agent license, a casualty broker-agent license, a personal lines broker-agent license, a limited lines auto-only agent license, a life agent license, and an accident and health or sickness agent license.

(b) The total number of licensees issued a property and casualty license, a property broker-agent license, a casualty broker-agent license, a personal lines license, a limited lines automobile license, a life license, and an accident and health or sickness license.

(c) The total number of licensees with both a life agent license and an accident and health or sickness agent license.

(d) The total justified complaints against the licensees enumerated in subdivision (b) annually for five years.

(e) At the end of five years following the issuance of auto-only agent, life agent, and accident and health or sickness agent licenses, a cumulative summary of the data required by this section compared to the licenses issued for property and casualty broker-agent, property broker-agent, casualty broker-agent, personal lines broker-agent, and life agent for the year immediately preceding the creation of this section.

(Amended by Stats. 2020, Ch. 184, Sec. 18. (SB 1255) Effective January 1, 2021.)