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**SB-788 Insurance: licensing: requirements.** (2017-2018)

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**Senate Bill No. 788**

**CHAPTER 487**

An act to amend, repeal, and add Section 1666.5 of the Insurance Code, relating to insurance.

[ Approved by Governor October 04, 2017. Filed with Secretary of State October 04, 2017. ]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 788, Lara. Insurance: licensing: requirements.

Existing law requires the Insurance Commissioner to require specified licensees, at the time of issuance or renewal of a license, to provide its federal employer identification number if the licensee is a partnership or his or her social security number for all others. Existing law also provides that any licensee failing to provide this information shall be reported by the licensing entity to the Franchise Tax Board, as specified, and shall be subject to a penalty if the licensee fails to provide the required information after notification by the board. Existing law requires the commissioner, upon request of the Franchise Tax Board, to furnish the board with specified information with respect to every licensee, including, but not limited to, the federal employer identification number if the entity is a partnership or the owner's name and social security number for all others. Existing law exempts the required information from the California Public Records Act.

This bill would limit the California Public Records Act exemption to an applicant's or licensee's federal employer identification or social security number, as applicable. The bill also would enumerate the circumstances under which the information provided under these provisions can be disclosed.

This bill, among other things, on July 1, 2018, would require the commissioner to require either a social security number or an individual taxpayer identification number if the license applicant or licensee is an individual applying for or renewing a production agency license, and would require the commissioner, upon request of the Franchise Tax Board, to furnish to the board either a social security number or an individual taxpayer identification number for individuals who are production agency licensees. The bill would require that a federal employer identification number, individual taxpayer identification number, or social security number furnished pursuant to this act be collected, recorded, and used only for licensing and administration purposes, be exempt from the California Public Records Act, and not be disclosed except as specified. The bill would also make technical and conforming changes.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Section 1666.5 of the Insurance Code is amended to read:

**1666.5.** (a) Notwithstanding any other provision of law, the commissioner shall at the time of issuance or renewal of any license under this chapter or Chapter 6 (commencing with Section 1760), Chapter 7 (commencing with Section 1800), or Chapter 8 (commencing with Section 1831) require that any license applicant or licensee provide its federal employer identification number if the license applicant or licensee is a partnership or his or her social security number for all others.

(b) Any license applicant or licensee failing to provide the federal identification number or social security number shall be reported by the commissioner to the Franchise Tax Board and, if failing to provide after notification pursuant to paragraph (1) of subdivision (b) of Section 19528 of the Revenue and Taxation Code, shall be subject to the penalty provided in paragraph (2) of subdivision (b) of Section 19528 of the Revenue and Taxation Code.

(c) The commissioner shall, upon request of the Franchise Tax Board, furnish to the board all of the following information with respect to every license applicant or licensee:

- (1) License applicant's or licensee's name.
- (2) Address or addresses of record.
- (3) Federal employer identification number if the entity is a partnership or owner's name and social security number for all others.
- (4) Type of license.
- (5) Effective date of license or a renewal.
- (6) Expiration date of license.
- (7) Whether license is active or inactive, if known.
- (8) Whether license is new or a renewal.

(d) For the purposes of this section:

- (1) "License" includes a certificate, registration, or any other authorization needed to engage in the insurance business regulated by this code.
- (2) "License applicant" means any individual or entity, other than a corporation, in the process of obtaining a license, certificate, registration, or other means to engage in the insurance business regulated by this code.
- (3) "Licensee" means any individual or entity, other than a corporation, authorized by a license, certificate, registration, or other means to engage in the insurance business regulated by this code.

(e) The reports required under this section shall be filed on magnetic media or in other machine-readable form, according to standards furnished by the Franchise Tax Board.

(f) The commissioner shall begin providing to the Franchise Tax Board the information required by this section as soon as economically feasible, but no later than July 1, 1987. The information shall be furnished at a time that the Franchise Tax Board may require.

(g) Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, the information furnished pursuant to subdivision (a) and paragraph (3) of subdivision (c) shall not be deemed to be a public record and shall not be open to the public for inspection.

(h) Any deputy, agent, clerk, officer, or employee of the commissioner, or any former officer or employee or other individual who in the course of his or her employment or duty has or has had access to the information required to be furnished under this section, shall not disclose or make known in any manner that information, except as provided in this section to the Franchise Tax Board.

- (1) This section shall not prevent an agency from disclosing or making known in any manner that information when the transfer is necessary for the transferee agency to perform its constitutional or statutory duties, and the use is compatible with a purpose for which the information was collected and the use or transfer is accounted for in accordance with Section 1798.25 of the Civil Code.

(2) With respect to information transferred from a law enforcement or regulatory agency, or information transferred to another law enforcement or regulatory agency, a use is compatible if the use of the information requested is needed in an investigation of unlawful activity under the jurisdiction of the requesting agency or for licensing, certification, or regulatory purposes by that agency and on the condition that the law enforcement or regulatory agency requesting the information needed agrees to keep that information confidential in accordance with Section 1798.25 of the Civil Code.

(3) A law enforcement or regulatory agency that requests information from the commissioner shall, upon request, identify for the commissioner the intended use for the information. The commissioner shall have the discretion to determine whether to transfer the information to the law enforcement or regulatory agency and shall not transfer the information if the commissioner determines that the information will be used for an improper purpose.

(i) It is the intent of the Legislature in enacting this section to utilize the social security account number or federal employer identification number for the purpose of establishing the identification of persons affected by state tax laws and, to that end, the information furnished pursuant to this section shall be used exclusively for an agency to perform its constitutional or statutory duties.

(j) This section shall remain in effect only until July 1, 2018, and as of that date is repealed, unless a later enacted statute that is enacted before July 1, 2018, deletes or extends that date.

**SEC. 2.** Section 1666.5 is added to the Insurance Code, to read:

**1666.5.** (a) (1) Notwithstanding any other provision of law, the commissioner shall at the time of issuance or renewal of any license under this chapter or Chapter 6 (commencing with Section 1760), Chapter 7 (commencing with Section 1800), or Chapter 8 (commencing with Section 1831) require that any license applicant or licensee provide its federal employer identification number if the license applicant or licensee is a partnership, or his or her social security number for all others, except as provided in paragraph (2).

(2) The commissioner shall require either a social security number or an individual taxpayer identification number if the license applicant or licensee is an individual applying for or renewing a license under this chapter.

(b) Any license applicant or licensee failing to provide the federal identification number, social security number, or individual taxpayer identification number shall be reported by the commissioner to the Franchise Tax Board and, if failing to provide after notification pursuant to paragraph (1) of subdivision (b) of Section 19528 of the Revenue and Taxation Code, shall be subject to the penalty provided in paragraph (2) of subdivision (b) of Section 19528 of the Revenue and Taxation Code.

(c) (1) The commissioner shall, upon request of the Franchise Tax Board, furnish to the board all of the following information with respect to every license applicant or licensee:

(A) License applicant's or licensee's name.

(B) Address or addresses of record.

(C) Federal employer identification number if the entity is a partnership or owner's name and social security number for all others.

(D) Type of license.

(E) Effective date of license or renewal.

(F) Expiration date of license.

(G) Whether license is active or inactive, if known.

(H) Whether license is new or a renewal.

(2) Notwithstanding paragraph (1), the commissioner shall, upon request of the Franchise Tax Board, furnish to the board either a social security number or an individual taxpayer identification number for individuals licensed under this chapter.

(d) For the purposes of this section:

(1) "License" includes a certificate, registration, or any other authorization needed to engage in the insurance business regulated by this code.

(2) "License applicant" means any individual or entity, other than a corporation, in the process of obtaining a license, certificate, registration, or other means to engage in the insurance business regulated by this code.

(3) "Licensee" means any individual or entity, other than a corporation, authorized by a license, certificate, registration, or other means to engage in the insurance business regulated by this code.

(e) The reports required under this section shall be filed on magnetic media or in other machine-readable form, according to standards furnished by the Franchise Tax Board.

(f) The commissioner shall begin providing to the Franchise Tax Board the information required by this section as soon as economically feasible, but no later than July 1, 1987. The information shall be furnished at a time that the Franchise Tax Board may require.

(g) Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, the information furnished pursuant to subdivision (a) and subparagraph (C) of paragraph (1) of, and paragraph (2) of, subdivision (c) shall not be deemed to be a public record and shall not be open to the public for inspection.

(h) Any deputy, agent, clerk, officer, or employee of the commissioner, or any former officer or employee or other individual who in the course of his or her employment or duty has or has had access to the information required to be furnished under this section, shall not disclose or make known in any manner that information, except as provided in this section.

(1) This section shall not prevent an agency from disclosing or making known in any manner that information when the transfer is necessary for the transferee agency to perform its constitutional or statutory duties, and the use is compatible with a purpose for which the information was collected and the use or transfer is accounted for in accordance with Section 1798.25 of the Civil Code.

(2) With respect to information transferred from a law enforcement or regulatory agency, or information transferred to another law enforcement or regulatory agency, a use is compatible if the use of the information requested is needed in an investigation of unlawful activity under the jurisdiction of the requesting agency or for licensing, certification, or regulatory purposes by that agency and on the condition that the law enforcement or regulatory agency requesting the information needed agrees to keep that information confidential in accordance with Section 1798.25 of the Civil Code.

(3) A law enforcement or regulatory agency that requests information from the commissioner shall, upon request, identify for the commissioner the intended use for the information. The commissioner shall have the discretion to determine whether to transfer the information to the law enforcement or regulatory agency and shall not transfer the information if the commissioner determines that the information will be used for an improper purpose.

(i) It is the intent of the Legislature in enacting this section to utilize the social security account number, individual taxpayer identification number, or federal employer identification number for the purpose of establishing the identification of persons affected by state tax laws and, to that end, the information furnished pursuant to this section shall be used exclusively for an agency to perform its constitutional or statutory duties.

(j) This section shall become operative on July 1, 2018.

**SEC. 3.** The Legislature finds and declares that Section 2 of this act, which adds Section 1666.5 to the Insurance Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to protect private and confidential personal information, it is necessary for that information to remain confidential.