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|------|------------------|----------------|--------------|-----------------|------------------|--------------|
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|------|------------------|----------------|--------------|-----------------|------------------|--------------|

**SB-577 Insurance.** (2023-2024)

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**Senate Bill No. 577**

**CHAPTER 444**

An act to amend Sections 425.16 and 998 of the Code of Civil Procedure, and to amend Sections 1749.81, 1871.7, 10123.857, 11401, 12418.4, and 12931 of the Insurance Code, relating to insurance.

[ Approved by Governor September 22, 2024. Filed with Secretary of State September 22, 2024. ]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 577, Hurtado. Insurance.

(1) Existing law generally regulates classes of insurance, including life insurance and annuities. Existing law, beginning on January 1, 2025, requires a life agent, licensed on or after January 1, 2024, engaging in the sale of specified life insurance policies on or after January 1, 2025, to complete specified hours of life insurance training courses before soliciting consumers to sell these life insurance policies. Existing law requires a life agent, engaging in the sale of variable life insurance policies, to complete specified hours of training before renewing their license and applies these training provisions to licenses that are issued or renewed on or after January 1, 2025.

This bill would clarify that the above-described training provisions apply to life agents selling individual life insurance policies and individual variable life insurance policies, as specified.

(2) Existing law authorizes service of legal process, notices, or other specified papers to be made in specified circumstances by delivering 2 copies to the commissioner or the commissioner's deputy, accompanied by payment of \$12.

This bill would instead authorize service of legal process, notices, or other specified papers to be made in specified circumstances by delivering 2 copies to the commissioner, the commissioner's deputy, or the commissioner's designated agent for service of process, accompanied by payment of a substituted service fee determined by the commissioner.

(3) Existing law prohibits knowingly employing runners, cappers, steerers, or other persons to procure clients or patients to perform or obtain services or benefits under workers' compensation coverage or a contract of insurance or that will be the basis for a claim against an insured individual or their insurer. Existing law authorizes a district attorney, the Insurance Commissioner, or an interested person to bring a civil action for a violation of that provision. If the district attorney elects not to pursue the matter due to insufficient resources, existing law authorizes the commissioner to proceed with the action. Existing law requires a copy of a complaint filed by an interested person to remain under seal for at least 60 days. Under existing law, an action brought by an interested person may be dismissed only if the court and the district attorney or the commissioner give written consent to the dismissal and their reasons for consenting.

This bill would authorize the commissioner to proceed with an action if the district attorney elects not to pursue the matter for any reason, and would eliminate the requirement that the district attorney or commissioner give their reasons for consenting to

dismissal of an action brought by an interested person. The bill would clarify that a complaint filed by an interested person is required to remain under seal for at least 60 days from the date of service on the district attorney and commissioner.

(4) Existing law exempts from requirements for providing insurance set forth in the Insurance Code firefighters', police officers', and peace officers' benefit and relief associations that comply with specified criteria, including, among other things, a requirement that the membership consist solely of peace officers, members of police or fire departments, and emergency medical personnel employed by fire departments, as specified. Existing law prohibits these associations from operating or doing business in the state without a certificate of authority. Existing law requires an association to renew its certificate of authority on or before July 1, 2019, and every 5 years thereafter.

This bill would, instead, require an association to renew its certificate of authority within 30 days after a change in name or address or before a merger.

(5) Existing law sets forth procedures for a special motion to strike in a civil cause of action arising from an act in furtherance of a person's right of petition or free speech and for offers to compromise before commencement of a civil trial or arbitration. Existing law exempts from these procedures an enforcement action brought in the name of the people of the State of California by the Attorney General, a district attorney, or a city attorney, acting as a public prosecutor.

This bill would additionally exempt from these procedures an enforcement action brought in the name of the people of the State of California by the Insurance Commissioner.

(6) This bill would make technical changes to eliminate outdated references and correct errors.

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

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

**SECTION 1.** Section 425.16 of the Code of Civil Procedure is amended to read:

**425.16.** (a) The Legislature finds and declares that there has been a disturbing increase in lawsuits brought primarily to chill the valid exercise of the constitutional rights of freedom of speech and petition for the redress of grievances. The Legislature finds and declares that it is in the public interest to encourage continued participation in matters of public significance, and that this participation should not be chilled through abuse of the judicial process. To this end, this section shall be construed broadly.

(b) (1) A cause of action against a person arising from any act of that person in furtherance of the person's right of petition or free speech under the United States Constitution or the California Constitution in connection with a public issue shall be subject to a special motion to strike, unless the court determines that the plaintiff has established that there is a probability that the plaintiff will prevail on the claim.

(2) In making its determination, the court shall consider the pleadings, and supporting and opposing affidavits stating the facts upon which the liability or defense is based.

(3) If the court determines that the plaintiff has established a probability that the plaintiff will prevail on the claim, neither that determination nor the fact of that determination shall be admissible in evidence at any later stage of the case, or in any subsequent action, and no burden of proof or degree of proof otherwise applicable shall be affected by that determination in any later stage of the case or in any subsequent proceeding.

(c) (1) Except as provided in paragraph (2), in any action subject to subdivision (b), a prevailing defendant on a special motion to strike shall be entitled to recover that defendant's attorney's fees and costs. If the court finds that a special motion to strike is frivolous or is solely intended to cause unnecessary delay, the court shall award costs and reasonable attorney's fees to a plaintiff prevailing on the motion, pursuant to Section 128.5.

(2) A defendant who prevails on a special motion to strike in an action subject to paragraph (1) shall not be entitled to attorney's fees and costs if that cause of action is brought pursuant to Section 11130, 11130.3, 54960, or 54960.1 of the Government Code, or pursuant to Chapter 2 (commencing with Section 7923.100) of Part 4 of Division 10 of Title 1 of the Government Code. Nothing in this paragraph shall be construed to prevent a prevailing defendant from recovering attorney's fees and costs pursuant to Section 7923.115, 11130.5, or 54960.5 of the Government Code.

(d) This section shall not apply to any enforcement action brought in the name of the people of the State of California by the Attorney General, Insurance Commissioner, district attorney, or city attorney, acting as a public prosecutor.

(e) As used in this section, "act in furtherance of a person's right of petition or free speech under the United States or California Constitution in connection with a public issue" includes: (1) any written or oral statement or writing made before a legislative, executive, or judicial proceeding, or any other official proceeding authorized by law, (2) any written or oral statement or writing

made in connection with an issue under consideration or review by a legislative, executive, or judicial body, or any other official proceeding authorized by law, (3) any written or oral statement or writing made in a place open to the public or a public forum in connection with an issue of public interest, or (4) any other conduct in furtherance of the exercise of the constitutional right of petition or the constitutional right of free speech in connection with a public issue or an issue of public interest.

(f) The special motion may be filed within 60 days of the service of the complaint or, in the court's discretion, at any later time upon terms it deems proper. The motion shall be scheduled by the clerk of the court for a hearing not more than 30 days after the service of the motion unless the docket conditions of the court require a later hearing.

(g) All discovery proceedings in the action shall be stayed upon the filing of a notice of motion made pursuant to this section. The stay of discovery shall remain in effect until notice of entry of the order ruling on the motion. The court, on noticed motion and for good cause shown, may order that specified discovery be conducted notwithstanding this subdivision.

(h) For purposes of this section, "complaint" includes "cross-complaint" and "petition," "plaintiff" includes "cross-complainant" and "petitioner," and "defendant" includes "cross-defendant" and "respondent."

(i) An order granting or denying a special motion to strike shall be appealable under Section 904.1.

(j) (1) Any party who files a special motion to strike pursuant to this section, and any party who files an opposition to a special motion to strike, shall, promptly upon so filing, transmit to the Judicial Council, by email or facsimile, a copy of the endorsed, filed caption page of the motion or opposition, a copy of any related notice of appeal or petition for a writ, and a conformed copy of any order issued pursuant to this section, including any order granting or denying a special motion to strike, discovery, or fees.

(2) The Judicial Council shall maintain a public record of information transmitted pursuant to this subdivision for at least three years, and may store the information on microfilm or other appropriate electronic media.

**SEC. 2.** Section 998 of the Code of Civil Procedure is amended to read:

**998.** (a) The costs allowed under Sections 1031 and 1032 shall be withheld or augmented as provided in this section.

(b) Not less than 10 days prior to commencement of trial or arbitration (as provided in Section 1281 or 1295) of a dispute to be resolved by arbitration, any party may serve an offer in writing upon any other party to the action to allow judgment to be taken or an award to be entered in accordance with the terms and conditions stated at that time. The written offer shall include a statement of the offer, containing the terms and conditions of the judgment or award, and a provision that allows the accepting party to indicate acceptance of the offer by signing a statement that the offer is accepted. Any acceptance of the offer, whether made on the document containing the offer or on a separate document of acceptance, shall be in writing and shall be signed by counsel for the accepting party or, if not represented by counsel, by the accepting party.

(1) If the offer is accepted, the offer with proof of acceptance shall be filed and the clerk or the judge shall enter judgment accordingly. In the case of an arbitration, the offer with proof of acceptance shall be filed with the arbitrator or arbitrators who shall promptly render an award accordingly.

(2) If the offer is not accepted prior to trial or arbitration or within 30 days after it is made, whichever occurs first, it shall be deemed withdrawn, and cannot be given in evidence upon the trial or arbitration.

(3) For purposes of this subdivision, a trial or arbitration shall be deemed to be actually commenced at the beginning of the opening statement of the plaintiff or counsel, or, if there is no opening statement, at the time of the administering of the oath or affirmation to the first witness, or the introduction of any evidence.

(c) (1) If an offer made by a defendant is not accepted and the plaintiff fails to obtain a more favorable judgment or award, the plaintiff shall not recover their postoffer costs and shall pay the defendant's costs from the time of the offer. In addition, in any action or proceeding other than an eminent domain action, the court or arbitrator, in its discretion, may require the plaintiff to pay a reasonable sum to cover postoffer costs of the services of expert witnesses, who are not regular employees of any party, actually incurred and reasonably necessary in either, or both, preparation for trial or arbitration, or during trial or arbitration, of the case by the defendant.

(2) (A) In determining whether the plaintiff obtains a more favorable judgment, the court or arbitrator shall exclude the postoffer costs.

(B) It is the intent of the Legislature in enacting subparagraph (A) to supersede the holding in *Encinitas Plaza Real v. Knight*, 209 Cal.App.3d 996, that attorney's fees awarded to the prevailing party were not costs for purposes of this section but were part of the judgment.

(d) If an offer made by a plaintiff is not accepted and the defendant fails to obtain a more favorable judgment or award in any action or proceeding other than an eminent domain action, the court or arbitrator, in its discretion, may require the defendant to

pay a reasonable sum to cover postoffer costs of the services of expert witnesses, who are not regular employees of any party, actually incurred and reasonably necessary in either, or both, preparation for trial or arbitration, or during trial or arbitration, of the case by the plaintiff, in addition to plaintiff's costs.

(e) If an offer made by a defendant is not accepted and the plaintiff fails to obtain a more favorable judgment or award, the costs under this section, from the time of the offer, shall be deducted from any damages awarded in favor of the plaintiff. If the costs awarded under this section exceed the amount of the damages awarded to the plaintiff the net amount shall be awarded to the defendant and judgment or award shall be entered accordingly.

(f) Police officers shall be deemed to be expert witnesses for the purposes of this section. For purposes of this section, "plaintiff" includes a cross-complainant and "defendant" includes a cross-defendant. Any judgment or award entered pursuant to this section shall be deemed to be a compromise settlement.

(g) This chapter does not apply to either of the following:

(1) An offer that is made by a plaintiff in an eminent domain action.

(2) Any enforcement action brought in the name of the people of the State of California by the Attorney General, the Insurance Commissioner, a district attorney, or a city attorney, acting as a public prosecutor.

(h) The costs for services of expert witnesses for trial under subdivisions (c) and (d) shall not exceed those specified in Section 68092.5 of the Government Code.

(i) This section shall not apply to labor arbitrations filed pursuant to memoranda of understanding under the Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1 of the Government Code).

**SEC. 3.** Section 1749.81 of the Insurance Code is amended to read:

**1749.81.** (a) A life agent licensed on or after January 1, 2024, who sells individual life insurance policies other than term life with no cash value shall satisfactorily complete four hours of training before soliciting individual consumers to sell those life insurance policies.

(b) A life agent who sells individual variable life insurance policies shall satisfactorily complete two hours of training before each license renewal. Completion of the four-hour annuity training required by Section 1749.8 does not satisfy the training required by this section. This training is in addition to, and is not a part of, the annuity training required by subdivision (b) of Section 1749.8. For resident licensees, this requirement shall count toward the licensee's continuing education requirement, but may still result in completing more than the minimum number of continuing education hours set forth in this section.

(c) The training required by this section shall be approved by the commissioner and shall consist of topics related to the types of life insurance policies described in subdivisions (a) and (b) and California law, regulations, and requirements related to those life insurance policies, prohibited sales practices, and unfair trade practices. Subject matter determined by the commissioner to be primarily intended to promote the sale or marketing of life insurance policies shall not qualify for credit toward the training requirement. Any course or seminar that is disapproved under the provisions of this section shall be presumed invalid for credit toward the training requirement of this section unless it is approved in writing by the commissioner.

(d) This section shall become operative January 1, 2025, and applies to licenses that are issued or renewed on or after January 1, 2025.

**SEC. 4.** Section 1871.7 of the Insurance Code is amended to read:

**1871.7.** (a) It is unlawful to knowingly employ runners, cappers, steerers, or other persons to procure clients or patients to perform or obtain services or benefits pursuant to Division 4 (commencing with Section 3200) of the Labor Code or to procure clients or patients to perform or obtain services or benefits under a contract of insurance or that will be the basis for a claim against an insured individual or their insurer.

(b) Every person who violates any provision of this section or Section 549, 550, or 551 of the Penal Code shall be subject, in addition to any other penalties that may be prescribed by law, to a civil penalty of not less than five thousand dollars (\$5,000) nor more than ten thousand dollars (\$10,000), plus an assessment of not more than three times the amount of each claim for compensation, as defined in Section 3207 of the Labor Code or pursuant to a contract of insurance. The court shall have the power to grant other equitable relief, including temporary injunctive relief, as is necessary to prevent the transfer, concealment, or dissipation of illegal proceeds, or to protect the public. The penalty prescribed in this paragraph shall be assessed for each fraudulent claim presented to an insurance company by a defendant and not for each violation.

(c) The penalties set forth in subdivision (b) are intended to be remedial rather than punitive, and shall not preclude, nor be precluded by, a criminal prosecution for the same conduct. If the court finds, after considering the goals of disgorging unlawful profit, restitution, compensating the state for the costs of investigation and prosecution, and alleviating the social costs of increased insurance rates due to fraud, that such a penalty would be punitive and would preclude, or be precluded by, a criminal prosecution, the court shall reduce that penalty appropriately.

(d) The district attorney or commissioner may bring a civil action under this section. Before the commissioner may bring that action, the commissioner shall be required to present the evidence obtained to the appropriate local district attorney for possible criminal or civil filing. If the district attorney elects not to pursue the matter, then the commissioner may proceed with the action.

(e) (1) Any interested persons, including an insurer, may bring a civil action for a violation of this section for the person and for the State of California. The action shall be brought in the name of the state. The action may be dismissed only if the court and the district attorney or the commissioner, whichever is participating, give written consent to the dismissal.

(2) A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the district attorney and commissioner. The complaint shall be filed in camera, shall remain under seal for at least 60 days from the date of service on the district attorney and commissioner, and shall not be served on the defendant until the court so orders. The local district attorney or commissioner may elect to intervene and proceed with the action within 60 days after the district attorney or commissioner receives both the complaint and the material evidence and information. If more than one governmental entity elects to intervene, the district attorney shall have precedence.

(3) The district attorney or commissioner may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal under paragraph (2). The motions may be supported by affidavits or other submissions in camera. The defendant shall not be required to respond to any complaint filed under this section until 20 days after the complaint is unsealed and served upon the defendant.

(4) Before the expiration of the 60-day period or any extensions obtained under paragraph (3), the district attorney or commissioner shall either:

(A) Proceed with the action, in which case the action shall be conducted by the district attorney or commissioner.

(B) Notify the court that it declines to take over the action, in which case the person bringing the action shall have the right to conduct the action.

(5) When a person or governmental agency brings an action under this section, no person other than the district attorney or commissioner may intervene or bring a related action based on the facts underlying the pending action unless that action is authorized by another statute or common law.

(f) (1) If the district attorney or commissioner proceeds with the action, the district attorney or commissioner shall have the primary responsibility for prosecuting the action, and shall not be bound by an act of the person bringing the action. That person shall have the right to continue as a party to the action, subject to the limitations set forth in paragraph (2).

(2) (A) The district attorney or commissioner may dismiss the action notwithstanding the objections of the person initiating the action if the person has been notified by the district attorney or commissioner of the filing of the motion, and the court has provided the person with an opportunity for a hearing on the motion.

(B) The district attorney or commissioner may settle the action with the defendant notwithstanding the objections of the person initiating the action if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of good cause, the hearing may be held in camera.

(C) Upon a showing by the district attorney or commissioner that unrestricted participation during the course of the litigation by the person initiating the action would interfere with or unduly delay the district attorney's or commissioner's prosecution of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the person's participation, including, but not limited to, the following:

(i) Limiting the number of witnesses the person may call.

(ii) Limiting the length of the testimony of those witnesses.

(iii) Limiting the person's cross-examination of witnesses.

(iv) Otherwise limiting the participation by the person in the litigation.

(D) Upon a showing by the defendant that unrestricted participation during the course of the litigation by the person initiating the action would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the

court may limit the participation by the person in the litigation.

(3) If the district attorney or commissioner elects not to proceed with the action, the person who initiated the action shall have the right to conduct the action. If the district attorney or commissioner so requests, the district attorney or commissioner shall be served with copies of all pleadings filed in the action and shall be supplied with copies of all deposition transcripts, at the district attorney's or commissioner's expense. When a person proceeds with the action, the court, without limiting the status and rights of the person initiating the action, may nevertheless permit the district attorney or commissioner to intervene at a later date upon a showing of good cause.

(4) If at any time both a civil action for penalties and equitable relief pursuant to this section and a criminal action are pending against a defendant for substantially the same conduct, whether brought by the government or a private party, the civil action shall be stayed until the criminal action has been concluded at the trial court level. The stay shall not preclude the court from granting or enforcing temporary equitable relief during the pendency of the actions. Whether or not the district attorney or commissioner proceeds with the action, upon a showing by the district attorney or commissioner that certain actions of discovery by the person initiating the action would interfere with a law enforcement or governmental agency investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay discovery for a period of not more than 180 days. A hearing on a request for the stay shall be conducted in camera. The court may extend the 180-day period upon a further showing in camera that the agency has pursued the criminal or civil investigation or proceedings with reasonable diligence and any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or proceedings.

(5) Notwithstanding subdivision (e), the district attorney or commissioner may elect to pursue its claim through any alternate remedy available to the district attorney or commissioner.

(g) (1) (A) (i) If the district attorney proceeds with an action brought by a person under subdivision (e), that person shall, subject to subparagraph (B), receive at least 30 percent but not more than 40 percent of the proceeds of the action or settlement of the claim, depending upon the extent to which the person substantially contributed to the prosecution of the action.

(ii) If the commissioner has brought an action or has proceeded with an action brought by another person under this section on or after January 1, 2006, the commissioner shall be entitled to attorney's fees and costs in addition to any judgment, regardless of the date that judgment is entered. The court shall determine and award the commissioner the amount of reasonable attorney's fees, including, but not limited to, reasonable fees for time expended by attorneys employed by the department and for costs incurred. Any attorney's fees or costs awarded to the commissioner and collected shall be deposited in the Insurance Fund. In cases in which the commissioner has intervened, the commissioner and the person bringing the claim may stipulate to an allocation. The court may allocate the funds pursuant to the stipulation if, after the court's ruling on objection by the district attorney, if any, the court finds it is in the interests of justice to follow the stipulation.

(iii) If the commissioner has proceeded with an action, if there is no stipulation regarding allocation, and if a judgment has been obtained or a settlement has been reached with the defendants, the court shall determine the allocation, upon motion of the commissioner or the person bringing the action, according to the following priority:

(I) The person bringing the action, regardless of whether that person paid money to the defendants as part of the acts alleged in the complaint, shall first receive the amount the court determines is reasonable for attorney's fees, costs, and expenses that the court determines to have been necessarily incurred.

(II) The commissioner shall receive the amount the court determines for reasonable attorney's fees and costs.

(III) If the person bringing the suit has paid moneys to the defendants as part of the acts alleged in the complaint, that person shall receive the amount paid to the defendants.

(IV) At least 30 percent, but not more than 40 percent, of the remaining assets or moneys, shall be allocated to the person bringing the action, depending upon the extent to which the person substantially contributed to the prosecution of the action.

(iv) Those portions of a judgment or settlement not distributed pursuant to this subdivision shall be paid to the General Fund of the state and, upon appropriation by the Legislature, shall be apportioned between the Department of Justice and the Department of Insurance for enhanced fraud investigation and prevention efforts.

(B) Where the action is one that the court finds to be based primarily on disclosures of specific information, other than information provided by the person bringing the action, relating to allegations or transactions in a criminal, civil, or administrative hearing, in a legislative or administrative report, hearing, audit, or investigation, or from the news media, the

court may award those sums that it considers appropriate, but in no case more than 10 percent of the proceeds, taking into account the significance of the information and the role of the person bringing the action in advancing the case to litigation.

(C) Any payment to a person under subparagraph (A) or under subparagraph (B) shall be made from the proceeds. The person shall also receive an amount for reasonable expenses that the court finds to have been necessarily incurred, plus reasonable attorney's fees and costs. All of those expenses, fees, and costs shall be awarded against the defendant.

(2) (A) If the district attorney or commissioner does not proceed with an action under this section, the person bringing the action or settling the claim shall receive an amount that the court decides is reasonable for collecting the civil penalty and damages. Except as provided in subparagraph (B), the amount shall not be less than 40 percent and not more than 50 percent of the proceeds of the action or settlement and shall be paid out of the proceeds. That person shall also receive an amount for reasonable expenses that the court finds to have been necessarily incurred, plus reasonable attorney's fees and costs. All of those attorney's fees and costs shall be imposed against the defendant. The parties shall serve the commissioner and the local district attorney with complete copies of any and all settlement agreements, and terms and conditions, for actions brought under this article at least 10 days prior to filing any motion for allocation with the court under this paragraph. The court may allocate the funds pursuant to the settlement agreement if, after the court's ruling on objection by the commissioner or the local district attorney, if any, the court finds it is in the interests of justice to follow the settlement agreement.

(B) If the person bringing the action, as a result of a violation of this section has paid money to the defendant or to an attorney acting on behalf of the defendant in the underlying claim, then the person shall be entitled to up to double the amount paid to the defendant or the attorney if that amount is greater than 50 percent of the proceeds. That person shall also receive an amount for reasonable expenses that the court finds to have been necessarily incurred, plus reasonable attorney's fees and costs. All of those expenses, fees, and costs shall be awarded against the defendant.

(3) If a local district attorney has proceeded with an action under this section, one-half of the penalties not awarded to a private party, as well as any costs awarded shall go to the treasurer of the appropriate county. Those funds shall be used to investigate and prosecute fraud, augmenting existing budgets rather than replacing them. All remaining funds shall go to the state and be deposited in the General Fund and, when appropriated by the Legislature, shall be apportioned between the Department of Justice and the Department of Insurance for enhanced fraud investigation and prevention efforts.

(4) Whether or not the district attorney or commissioner proceeds with the action, if the court finds that the action was brought by a person who planned and initiated the violation of this section, that person shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. The dismissal shall not prejudice the right of the district attorney or commissioner to continue the action on behalf of the state.

(5) If the district attorney or commissioner does not proceed with the action, and the person bringing the action conducts the action, the court may award to the defendant its reasonable attorney's fees and expenses if the defendant prevails in the action and the court finds that the claim of the person bringing the action was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment.

(h) (1) In no event may a person bring an action under subdivision (e) that is based upon allegations or transactions that are the subject of a civil suit or an administrative civil money penalty proceeding in which the Attorney General, district attorney, or commissioner is already a party.

(2) (A) No court shall have jurisdiction over an action under this section based upon the public disclosure of allegations or transactions in a criminal, civil, or administrative hearing in a legislative or administrative report, hearing, audit, or investigation, or from the news media, unless the action is brought by the Attorney General or the person bringing the action is an original source of the information.

(B) For purposes of this paragraph, "original source" means an individual who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the district attorney or commissioner before filing an action under this section that is based on the information.

(i) Except as provided in subdivision (j), the district attorney or commissioner is not liable for expenses that a person incurs in bringing an action under this section.

(j) In civil actions brought under this section in which the commissioner or a district attorney is a party, the court shall retain discretion to impose sanctions otherwise allowed by law, including the ability to order a party to pay expenses as provided in Sections 128.5 and 1028.5 of the Code of Civil Procedure.

(k) Any employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by their employer because of lawful acts done by the employee on behalf of the employee or others in furtherance of an action under this section, including investigation for, initiation of, testimony for, or

assistance in, an action filed or to be filed under this section, shall be entitled to all relief necessary to make the employee whole. That relief shall include reinstatement with the same seniority status the employee would have had but for the discrimination, two times the amount of backpay, interest on the backpay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney's fees. An employee may bring an action in the appropriate superior court for the relief provided in this subdivision. The remedies under this section are in addition to any other remedies provided by existing law.

(l) (1) An action pursuant to this section may not be filed more than three years after the discovery of the facts constituting the grounds for commencing the action.

(2) Notwithstanding paragraph (1) no action may be filed pursuant to this section more than eight years after the commission of the act constituting a violation of this section or a violation of Section 549, 550, or 551 of the Penal Code.

**SEC. 5.** Section 10123.857 of the Insurance Code is amended to read:

**10123.857.** (a) A health insurer that issues, sells, renews, or offers a policy covering dental services, including a specialized health insurance policy covering dental services that offers a service via telehealth to an insured through a third-party corporate telehealth provider shall report to the department, in a manner specified by the department, all of the following for each product type:

(1) The total number of services delivered via telehealth by a third-party corporate telehealth provider.

(2) For each third-party corporate telehealth provider with which it contracts, the percentage of the third-party telehealth provider's contracted providers available to the insurer's insured that are also network providers.

(3) For each third-party corporate telehealth provider with which it contracts, the types of telehealth services utilized by insureds, including information on the gender and age of the insured, and any other information as determined by the department.

(b) A health insurer that issues, sells, renews, or offers a policy covering dental services, including a specialized health care policy covering dental services that offers a service via telehealth to an insured through a third-party corporate telehealth provider, shall disclose to the insured the impact of third-party telehealth visits on the insured's benefit limitations, including frequency limitations and the insured's annual maximum.

(c) Section 10123.856 shall not apply to specialized health insurance policies covering dental services.

(d) For the purposes of this section, "third-party corporate telehealth provider" means a corporation that provides dental services exclusively through a telehealth technology platform and has no physical location at which a patient can receive services, and is directly contracted with a health insurer that issues, sells, renews, or offers a policy, including a specialized health insurance policy, that covers dental services.

**SEC. 6.** Section 11401 of the Insurance Code is amended to read:

**11401.** (a) An association shall not operate or do business in this state without a certificate of authority. The commissioner shall issue a certificate of authority to any association unless the commissioner determines, after examination, that it does not comply with the provisions of this chapter. The filing fee for the application for the certificate of authority shall be one thousand four hundred ten dollars (\$1,410).

(b) An association shall renew its certificate of authority within 30 days after a change in name or address or before a merger.

(c) (1) The commissioner may revoke the certificate of authority for an association that failed to renew its certificate of authority in compliance with subdivision (b), after giving reasonable written notice mailed to the last address of the association registered with the department.

(2) The commissioner may revoke the certificate of authority for an association that has a dissolved, suspended, or otherwise inactive status according to the records of the Secretary of State, after giving reasonable written notice mailed to the last address of the association registered with the department.

(3) To obtain a reissue of a certificate of authority revoked pursuant to this subdivision, an association shall apply to the commissioner pursuant to subdivision (a).

**SEC. 7.** Section 12418.4 of the Insurance Code is amended to read:



**12418.4.** (a) Sections 1667, 1668, 1669, 1670, 1729, 1729.2, 1738, 1738.5, 1742, 1743, and Article 6 (commencing with Section 12404), shall apply to all applicants or holders of a certificate of registration issued pursuant to this article.

(b) The department may revoke, suspend, restrict, or decline to issue a certificate of registration if it determines that the title marketing representative or applicant has violated provisions of Article 6 (commencing with Section 12404) pursuant to the due process and hearing requirements set forth in subdivision (c).

(c) Except as provided in Section 1669, a certificate of registration shall not be denied, restricted, suspended, or revoked without a hearing conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(d) In addition to, or in lieu of, any other penalty that may be imposed under this article against a title marketing representative, the commissioner may bring an administrative action against a title marketing representative for any violation of the provisions of Article 6 (commencing with Section 12404). If a title marketing representative charged with a violation of Article 6 (commencing with Section 12404) is determined by the commissioner to have committed the violation, the commissioner may require the surrender of, temporarily suspend or revoke either permanently or temporarily the title marketing representative's certificate of registration, and, in addition, may impose a monetary penalty. Any payment of a monetary penalty pursuant to a settlement or final adjudication shall be made from the title marketing representative's personal funds and not by their employer either directly or through the title marketing representative. This article shall not preclude an action against a company that had actual knowledge of the violation by the title marketing representative. A title marketing representative who is issued a certificate of registration under this article may not engage in any activity that is otherwise prohibited through a separate entity controlled by the title marketing representative or by the company or entity that employs the title marketing representative.

(e) A title marketing representative who has their certificate of registration revoked by the department shall not be permitted to reapply for another certificate of registration with the department for five years from the date of revocation.

**SEC. 8.** Section 12931 of the Insurance Code is amended to read:

**12931.** (a) Service of legal process, notices, or other papers described in or referred to by Section 1452, 1605, 1610, 1612, 11104, or 11105 may be made upon the commissioner in the instances enumerated in this section and under the circumstances prescribed in this section by delivering to the commissioner, the commissioner's deputy, or the commissioner's designated agent for service of process two copies thereof for each person or party defendant so served accompanied by payment of a substituted service fee as determined pursuant to Section 12978 for each person or party, and by complying with the other provisions of this section.

(b) The situations under which such service may be so made and the circumstances under which these provisions apply are:

(1) Where for any reason the person desiring to have service so made elects to serve the commissioner instead of the attorney in fact, as stipulated pursuant to Section 1323, of a reciprocal or interinsurance exchange, domestic, foreign, admitted, or nonadmitted.

(2) Where service is to be made on an admitted foreign or alien insurer, when service cannot be made on the principal statutory agent of such insurer duly appointed pursuant to Article 3 (commencing with Section 1600) of Chapter 4 of Part 2 of Division 1 for reasons specified in Section 1604 or otherwise recognized by law.

(3) In actions against nonadmitted insurers, including nonadmitted fraternal benefit societies and reciprocals, under the circumstances described in Article 4 (commencing with Section 1610) of Chapter 4 of Part 2 of Division 1. This provision shall not apply to actions brought under insurance policies or certificates issued by nonadmitted insurers placed by surplus line brokers or special lines surplus line brokers where such insurance contract names a resident of this state as agent for service of process.

(4) In actions involving admitted and formerly admitted fraternal benefit societies as described in Section 11104.

(c) Upon receipt of two copies of the process, notice, or papers to be served and the fee above prescribed, the commissioner shall promptly mail one of the copies by certified mail (or by registered mail if it is addressed to an area outside of the United States where certified mail service is not available) to the defendant or person to be served at the last principal place of business of the defendant or person to be served, known to the commissioner by the commissioner's official records in the case of a licensee; otherwise, in the case of a nonadmitted insurer, to its last principal place of business known to the commissioner from national directories or reference books or other reliable information available in the commissioner's office. The commissioner shall keep a record of all services made upon the commissioner pursuant to this section. The other copy of the process, notice, or papers shall be retained among the commissioner's official public records for a period not to exceed two years, absent special circumstances which in the commissioner's judgment compel longer retention.

(d) Service made in the manner provided for in this section is valid and sufficient and gives jurisdiction over the person of a nonadmitted or unauthorized defendant, provided notice of such service and a copy of the process, notice, or papers being served are sent within 10 days thereafter by certified mail (or by registered mail if it is addressed to an area outside of the United States where certified mail service is not available) by plaintiff or plaintiff's attorney to the defendant at its last known principal place of business, and the receipt or the receipt of defendant's agent for such copy, showing the name of the sender and the name and address of the addressee-defendant thereon, and the affidavit of plaintiff or plaintiff's attorney showing compliance with this section, are filed with the clerk of the court in which such action is pending on or before the date the defendant is required to appear, or within further time as the court may allow.

In case of service made pursuant to this section upon a licensee of the commissioner required by law to keep the licensee's current business address or that of its agent for service of process on file with the commissioner, the service shall be valid if the commissioner mailed, postage prepaid, a copy of the process, notice, or papers to the defendant or licensee intended to be served to the licensee's current address as shown by the commissioner's records, or, in the case of an insurer, to its manager, president, or secretary, and an affidavit of compliance by plaintiff or plaintiff's attorney at law is made and filed at the place and within the time mentioned in this subdivision.

(e) A plaintiff or complainant shall not be entitled to a judgment by default in any action, suit, or proceeding in which service of process is effected in the manner provided in this section until the expiration of 30 days from the date on which the affidavit of compliance is filed.

(f) This section does not limit or abridge the right to serve any process, notice, papers, or demand upon any insurer in any other manner now or hereafter permitted by law.