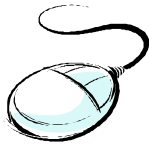


California Insurance Codes

Extracted Sections §35, 380-381, 791.13, 1633 -1748, 1800-1823



Source: www.leginfo.ca.gov

Updated 07/15/08

(Note: Headings For Identification Purposes Only)

§35. Transact, Defined

“Transact” as applied to insurance includes any of the following:

- (a) Solicitation.
- (b) Negotiations preliminary to execution.
- (c) Execution of a contract of insurance.
- (d) Transaction of matters subsequent to execution of the contract and arising out of it.

§380. Policy

The written instrument, in which a contract of insurance is set forth, is the policy.

§381. A policy shall specify:

1. The parties between whom the contract is made.
2. The property or life insured.
3. The interest of the insured in property insured, if he is not the absolute owner thereof.
4. The risks insured against.
5. The period during which the insurance is to continue.
6. Either:
 - a. A statement of the premium, or
 - b. If the insurance is of a character where the exact premium is only determinable upon the termination of the contract, a statement of the basis and rates upon which the final premium is to be determined and paid.

§791.13. Privacy/Disclosure

An insurance institution, agent, or insurance-support organization shall not disclose any personal or privileged information about an individual collected or received in connection with an insurance transaction unless the disclosure is:

- (a) With the written authorization of the individual, and meets either of the conditions specified in paragraph (1) or (2):
 - (1) If such authorization is submitted by another insurance institution, agent, or insurance-support organization, the authorization meets the requirement of Section 791.06.
 - (2) If such authorization is submitted by a person other than an insurance institution, agent, or insurance-support organization, the authorization is:
 - (a) Dated;
 - (b) Signed by the individual.
 - (c) Obtained one year or less prior to the date a disclosure is sought pursuant to this section.
- (b) To a person other than an insurance institution, agent, or insurance-support organization, provided such disclosure is reasonably necessary:
 - (1) To enable such person to perform a business, professional or insurance function for the disclosing insurance institution, agent, or insurance-support organization or insured and such person agrees not to disclose the information further without the individual's written authorization unless the further disclosure:
 - (A) Would otherwise be permitted by this section if made by an insurance institution, agent, or insurance-support organization; or
 - (B) Is reasonably necessary for such person to perform its function for the disclosing insurance institution, agent, or insurance-support organization.
 - (2) To enable such person to provide information to the disclosing insurance institution, agent or insurance-support organization for the purpose of:
 - (A) Determining an individual's eligibility for an insurance benefit or payment; or
 - (B) Detecting or preventing criminal activity, fraud, material misrepresentation or material nondisclosure in connection with an insurance transaction.
 - (C) To an insurance institution, agent, insurance-support organization or self-insurer, provided the information disclosed is limited to that which is reasonably necessary under either paragraph (1) or (2):

- (1) To detect or prevent criminal activity, fraud, material misrepresentation or material nondisclosure in connection with insurance transactions; or
 - (2) For either the disclosing or receiving insurance institution, agent or insurance-support organization to perform its function in connection with an insurance transaction involving the individual.
- (D) To a medical-care institution or medical professional for the purpose of any of the following:
- (1) Verifying insurance coverage or benefits.
 - (2) Informing an individual of a medical problem of which the individual may not be aware.
 - (3) Conducting operations or services audit, provided only such information is disclosed as is reasonably necessary to accomplish the foregoing purposes.
- (E) To an insurance regulatory authority; or
- (F) To a law enforcement or other governmental authority pursuant to law.
- (G) Otherwise permitted or required by law.
- (H) In response to a facially valid administrative or judicial order, including a search warrant or subpoena.
- (I) Made for the purpose of conducting actuarial or research studies, provided:
- (1) No individual may be identified in any actuarial or research report.
 - (2) Materials allowing the individual to be identified are returned or destroyed as soon as they are no longer needed.
 - (3) The actuarial or research organization agrees not to disclose the information unless the disclosure would otherwise be permitted by this section if made by an insurance institution, agent or insurance-support organization.
- (J) To a party or a representative of a party to a proposed or consummated sale, transfer, merger or consolidation of all or part of the business of the insurance institution, agent or insurance-support organization, provided:
- (1) Prior to the consummation of the sale, transfer, merger, or consolidation only such information is disclosed as is reasonably necessary to enable the recipient to make business decisions about the purchase, transfer, merger, or consolidation.
 - (2) The recipient agrees not to disclose the information unless the disclosure would otherwise be permitted by this section if made by an insurance institution, agent or insurance-support organization.
- (K) To a person whose only use of such information will be in connection with the marketing of a product or service, provided:
- (1) No medical-record information, privileged information, or personal information relating to an individual's character, personal habits, mode of living, or general reputation is disclosed, and no classification derived from such information is disclosed; or
 - (2) The individual has been given an opportunity to indicate that he or she does not want personal information disclosed for marketing purposes and has given no indication that he or she does not want the information disclosed; and
 - (3) The person receiving such information agrees not to use it except in connection with the marketing of a product or service.
- (L) To an affiliate whose only use of the information will be in connection with an audit of the insurance institution or agent or the marketing of an insurance product or service, provided the affiliate agrees not to disclose the information for any other purpose or to unaffiliated persons.
- (M) By a consumer reporting agency, provided the disclosure is to a person other than an insurance institution or agent.
- (N) To a group policyholder for the purpose of reporting claims experience or conducting an audit of the insurance institutions or agent's operations or services, provided the information disclosed is reasonably necessary for the group policyholder to conduct the review or audit.
- (O) To a professional peer review organization for the purpose of reviewing the service or conduct of a medical-care institution or medical professional.
- (P) To a governmental authority for the purpose of determining the individual's eligibility for health benefits for which the governmental authority may be liable.
- (Q) To a certificate holder or policyholder for the purpose of providing information regarding the status of an insurance transaction.

(R) To a lienholder, mortgagee, assignee, lessor, or other person shown on the records of an insurance institution or agent as having a legal or beneficial interest in a policy of insurance. The information disclosed shall be limited to that which is reasonably necessary to permit the person to protect his or her interest in the policy and shall be consistent with Article 5.5 (commencing with Section 770).

§1633. Penalty; transacting without a valid license.

Any person who transacts insurance without a valid license so to act is guilty of a misdemeanor punishable by a fine not exceeding fifty thousand dollars (\$50,000) or by imprisonment in a county jail for a period not exceeding one year, or by both that fine and imprisonment.

§1666. Investigation By Commissioner; Filing Of Supplementary Documents; Issuance Of Certificate Of Convenience; Permanent License.

Upon the filing of an application for a license in accordance with Article 4 of this chapter, the commissioner may make such investigation and require the filing of such supplementary documents affidavits and statements as may be necessary to obtain a full disclosure of such information as will aid him in determining whether the prerequisites for the license have been met. If the applicant makes a showing satisfactory to the commissioner that he meets all such prerequisites, the commissioner, if the applicant be eligible therefore, may issue a certificate of convenience, and upon the applicant meeting applicable examination requirement may issue a permanent license.

§1666.5. Providing Federal Employer Identification Number, Or Social Security Number; Failure To Provide Notice; Penalty; Information Furnished; Recording Information Reported; Confidentially Legislative Intent; Tax Enforcement.

(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 licensee provide its federal employer identification number if the licensee is a partnership or his or her social security number for all others.

(b) Any 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 licensee:

- (1) 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 renewal.

(d) For the purposes of this section:

- (1) "Licensee" means any entity, other than a corporation, authorized by a license, certificate, registration, or other means to engage in the insurance business regulated by this code.
- (2) "License" includes a certificate, registration or any other authorization needed 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 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 which 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 this section 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 on any manner that information, except as provided in this section to the Franchise Tax Board.
- (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 persona affected by state tax laws and, to that end, the information furnished pursuant to this section shall be used exclusively for tax enforcement purposes.

§1667. Hearing; Laws Governing.

Except as provided in Section 1669, a license shall not be denied without an opportunity to the applicant to be heard in support of his application. When a hearing is held, the proceeding shall be conducted in accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code.

§1668. Denial Of Application After Hearing; Grounds.

The commissioner may deny an application for any license issued pursuant to this chapter if:

- (a) The applicant is not properly qualified to perform the duties of a person holding the license applied for;
- (b) The granting of the license will be against public interest;
- (c) The applicant does not intend to actively and in good faith to carry on as a business with the general public the transactions which would be permitted by the issuance of the license applied for;
- (d) The applicant is not of good business reputation;
- (e) The applicant is lacking in integrity;
- (f) The applicant has been refused a professional, occupational or vocational license or has such a license suspended or revoked by any licensing authority for reasons that should preclude the granting of the license applied for;
- (g) The applicant seeks the license for the purpose of avoiding or preventing the operation or enforcement of the insurance laws of this state;
- (h) The applicant has knowingly or willfully made a misstatement in an application to the commissioner for a license, or in a document filed in support of such an application, or has made a false statement in testimony given under oath before the commissioner or any other person acting in his stead.
- (i) The applicant has previously engaged in a fraudulent practice or act or has conducted any business in a dishonest manner.
- (j) The applicant has shown incompetency or untrustworthiness in the conduct of any business, or has by commission of a wrongful act or practice in the course of any business exposed the public or those dealing with him to the danger of loss;
- (k) The applicant has knowingly misrepresented the terms or effect of an insurance policy or contract;
- (l) The applicant has failed to perform a duty expressly enjoined upon him by a provision of this code or has committed an act expressly forbidden by such a provision;
- (m) The applicant has been convicted of:
 - (1) A felony
 - (2) A misdemeanor denounced by this code or other laws regulating insurance; or
 - (3) A public offense having as one of its necessary elements a fraudulent act or an act of dishonesty in acceptance, custody or payment of money or property;
- (n) The applicant has aided or abetted any person in an act or omission which would constitute grounds for the suspension, revocation or refusal of a license or certificate issued under this code to the person aided or abetted;

- (o) The applicant has permitted any person in his employ to violate any provision of this code; or
- (p) The applicant has violated any provision of law relating to conduct of business which could be done only under authority conferred by such license.
- (q) The applicant has submitted to the commissioner a false or fraudulent certificate pursuant to subdivision (d) of Section 1749.5.

A judgment, plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section.

§1668.5. Denial, Suspension, Revocation of License

- (a) The commissioner may deny an application for any license issued pursuant to this chapter, and may suspend or revoke the permanent license of any organization licensed pursuant to this chapter as authorized by Section 1738, if the applicant or holder of the permanent license is an organization and a controlling person of the organization is any of the following:
 - (1) The controlling person has previously engaged in a fraudulent practice or act or has conducted any business in a dishonest manner.
 - (2) The controlling person has shown incompetency or untrustworthiness in the conduct of any business, or has by commission of a wrongful act or practice in the course of any business exposed the public or those dealing with him or her to the danger of loss.
 - (3) The controlling person has knowingly misrepresented the terms or effect of an insurance policy or contract.
 - (4) The controlling person has failed to perform a duty expressly enjoined upon him or her by a provision of this code or has committed an act expressly forbidden by a provision of this code.
 - (5) The controlling person has been convicted of any of the following:
 - a. A felony.
 - b. A misdemeanor denounced by this code or other laws regulating insurance.
 - c. A public offense having as one of its necessary elements a fraudulent act or an act of dishonesty in acceptance, custody, or payment of money or property. A judgment, plea, or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section.
 - (6) The controlling person has aided or abetted any person in an act or omission that would constitute grounds for the suspension, revocation, or refusal of a license or certificate issued under this code to the person aided or abetted.
 - (7) The controlling person has permitted any person in his or her employ to violate any provision of this code.
 - (8) The controlling person has violated any provision of law relating to conduct of business that could lawfully be done only under authority conferred by a license under this chapter.
- (b) As used in this section, "controlling person" means a person who possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the organization, whether through the ownership of voting securities, by contract other than a commercial contract for goods or non-management services, or otherwise, including, but not limited to, power that is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, more than 10 percent of the voting securities of the organization. This presumption may be rebutted by a showing that control does not exist in fact. The commissioner may, after furnishing all persons in interest notice and opportunity to be heard, determine that control exists in fact, notwithstanding the absence of a presumption to that effect.

§1669. Denial Of Application Without Hearing.

The commissioner may, without hearing, deny any application if the applicant has:

- 1. Committed a felony as shown by a plea of guilty or nolo contendere, or by a final judgment of conviction thereof;
- 2. Committed a misdemeanor denounced by this code or by other laws regulating insurance as shown by a plea of guilty or nolo contendere, or by a final judgment of conviction thereof;

3. Had a previous application for a professional, occupational, or vocational license denied for cause by any licensing authority, within five years of the date of the filing of the application be acted upon, on grounds that should preclude the granting of a license by the commissioner under this chapter; or
4. Had a previously issued professional, occupational, or vocational license suspended or revoked for cause by any licensing authority, within five years of the date of filing the application to be acted upon, on grounds that should preclude the granting of a license by the commissioner under this chapter.

In the event the commissioner issues an order based on a plea that does not at any time result in a judgment of conviction, the commissioner shall vacate the order upon petition by the applicant.

§1670. Automatic Denial Without Prejudice.

If an applicant for any license under this chapter, within one year from the date of the receipt by the commissioner of the application, whether or not the filing is complete, or within one year from the date of the issuance to him of a certificate of convenience, if any, whichever is the later date, neither fully qualifies for and receives such license on a permanent basis, nor is denied its issue, such application is automatically denied without prejudice to the filing of new application for such license unless in a proceeding under a statement of issues the commissioner for good cause determines such denial should be set aside or stayed. Nothing in the section shall nullify Section 1695 to extend the expiration date of a certificate of convenience.

§1672. Examination: Organization, Natural Persons

The commissioner may deny an application filed by an organization, unless both the organization and all natural persons named thereon meet the qualifications for a license for which such application is filed, but the qualifying examination shall be administered only to natural persons. In case the application is for more than one natural person to be named thereon and at least one, but not all, of such persons satisfy the examination requirement, the commissioner may issue such license omitting therefrom the names of the person or persons who fail to satisfy the examination requirement.

§1677. Scope of Examination

Every qualifying examination for a license under this chapter shall be in writing and shall be of sufficient scope to satisfy the commissioner that the applicant has sufficient knowledge of and is reasonably familiar with the insurance laws of this State and with the provisions, terms and conditions of the insurance which may be transacted pursuant to the license sought, and has a general and fair understanding of the obligations and duties of the holder of such license.

§1678. Commissioner; examination frequency

The commissioner shall, at least once each month, give in each of the cities in which he has an office qualifying examinations under this chapter. He may give such examinations at more frequent intervals or in other places throughout the State.

§1679. License; nonresident applicant

(a) A nonresident applicant for a license shall be subject to the same qualifying examination as is required of a resident applicant. The examination may be administered to an eligible nonresident applicant through the insurance authority of the state, territory of the United States, or province of Canada of his or her residence; provided, however, that the commissioner may, in his or her discretion, enter into a reciprocal arrangement with the officer having supervision of the insurance business in any other state, territory of the United States, or province of Canada whose qualification standards for the applicant to be examined are substantially the same as or in excess of those of this state, to accept, in lieu of the examination of applicant residing therein, a certificate of the officer to the effect that the applicant is licensed in that state, territory of the United States, or province of Canada in a capacity similar to that for which a license is sought in this state and has complied with its qualification standards in respect to the following:

- (1) Experience or training,
- (2) Reasonable familiarity with the broad principles of insurance licensing and regulatory laws and with the provisions, terms and conditions of the insurance which the applicant proposes to transact, and

- (3) A fair and general understanding of the obligations and duties of a holder of the license sought.
- (b) The provisions of this section shall not apply to a nonresident applicant who maintains a license in a jurisdiction that grants reciprocity to California residents in accordance with Section 1638.5.

§1680. Nonresident licensee seeks license as resident

If a nonresident secures a license without examination through the filing of a certificate described in Section 1679 and thereafter seeks a license as resident, he must take and pass the qualifying examination for the license sought.

§1681.5 Cheating; examination

(a) No person shall cheat on, subvert, or attempt to subvert, any licensing examination given by the department, including, but not limited to, engaging in, soliciting, or procuring any of the following:

(1) Any communication between one or more examinees and any other person, other than the proctor or examination official, while the examination is in progress.

(2) The taking of all or part of the examination by a person other than the applicant.

(3) Possession or use at any time during the examination or while the examinee is on the examination premises of any device, material, or document that is not expressly authorized for use by examinees during the examination, including, but not limited to, notes, crib sheets, textbooks, and electronic devices.

(4) Failure to follow any examination instruction or rule related to examination security.

(5) The provision of false, fraudulent, or materially misleading information concerning education, experience, or other qualifications as part of, or in support of, any application for admission to any examination.

(b) Any person who willfully violates this section is guilty of a misdemeanor punishable by a fine not exceeding ten thousand dollars (\$10,000) or by imprisonment in a county jail not exceeding one year.

(c) The commissioner shall bar any candidate caught willfully cheating under this section from taking any license examination and from holding an active license under any provision of this code for a period of five years.

§1682. Commissioner sets rules – twice failed exam

The commissioner may, in accordance with the procedure set forth in Chapter 4 of Part I of Division 3 of Title 2 of the Government Code, promulgate rules setting reasonable time limits within which a person who has twice failed an examination or failed to fulfill examination requirements may not take further examinations.

§1683. Notice; examination

At a reasonable time before an applicant is required to appear for a qualifying examination, the commissioner shall send him written notice thereof. Such notice shall set forth the time and place of such examination. The commissioner shall not send such notice to applicant until he has paid the fee required for filing application to take or retake such examination. If an applicant fails to appear at the time and place set for the examination, he shall be deemed to have failed the examination. If the applicant fails the qualifying examination, the commissioner shall give him written notice thereof.

§1684. Reference; Natural person; capacity under organization

Except as otherwise provided in this article, whenever reference is made in this article to an applicant for a license, such reference includes each natural person who applies to be named on the license of an organization, and wherever reference is made to a person who has been licensed in a specified capacity, such reference shall also apply to a person named to act in such capacity under the license of an organization.

§1702. Issuance To Holder.

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

§1703. Disclosure Of Financial Records, Authority.

Every applicant for an original license to act as a fire and casualty broker-agent, life agent, life analyst, surplus line broker, special lines surplus line broker, motor club agent, or bail agent or bail solicitor or bail permittee 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.

§1708. License Surrender to Commissioner

A licensee may at any time surrender for cancellation any license under which he is permitted to act in any of the capacities specified in this chapter. If the license is in the possession of the licensee, surrender may be accomplished by the delivery of the document itself to the commissioner. If the license is in the possession of the insurer or the licensee's employer, the licensee may nevertheless make such surrender by written notice thereof delivered to the commissioner.

§1710. All licenses issued to natural persons terminate upon the death of such person.

§1711. Organization Ceases / Eligibility To Hold License

For the purposes of this chapter and except as provided in this article, an organization ceases to exist as an entity eligible to hold a license:

- (a) Upon dissolution of a co-partnership or upon any change in membership of a co- partnership.
- (b) Upon the termination of an association.
- (c) Upon dissolution of a corporation.

Provided, however, should a change occur in the membership of a co-partnership licensed under this chapter, the surviving or continuing co-partnership may continue to transact insurance under the license issued to the predecessor co-partnership until action is taken by the commissioner on the application herein prescribed if the following requirements are met:

- (1) The surviving or continuing co-partnership within 30 days files an application on a form prescribed by the commissioner for registration of the change in membership, and pays the lawful fee therefore and, if acting as an insurance broker, furnishes the bond required under Article 5 (commencing with Section 1662).
- (2) At least one person who exercised the agency or brokership powers of the predecessor co-partnership continues to exercise the agency or brokership powers of the surviving or continuing co-partnership.
- (3) That application for registration be signed by a general partner.

§1712 Termination of the Existence of the License Entity

The termination of the existence of the license entity as provided in Section 1711, automatically terminates the right of that entity to transact insurance thereunder; except that a natural person, copartnership, association, or corporation licensed under this article, may continue to transact insurance under an existing license in either a different capacity or as a different organization or entity if a natural person is named to exercise the agency or brokerage powers of the license entity, and that natural person remains eligible to be so named, and if no substantial change in ownership and no change in control of the licensed insurance business has taken place; provided, that within 30 days following the change the person or the successor copartnership, association or corporation files a properly completed and executed application in the form prescribed by the commissioner for an appropriate license and pays the lawful fees therefor.

Nothing herein shall be construed to nullify any provision of Section 1718 except that any fee paid as required by subdivisions (a) or (b) of Section 1718 for a license not issued may be applied towards the fee for filing an application under this section.

§1718 License Renewal Responsibility

(a) Not less than 60 days before a permanent license will expire, the commissioner may mail, to the latest address appearing on his or her records, an application to the licensee to renew the license for the appropriate succeeding license term. It is the licensee's responsibility to renew whether or not a renewal notice is received. The commissioner may accept a late renewal, provided the licensee's failure to comply is to clerical error or inadvertence on the part of the department.

(b) Application for renewal of a license may be filed on or before the expiration date. When filed under this subdivision, the fee for filing shall be specified in Section 1750.

(c) The application for renewal of an expired license may be filed after the expiration date and until that same month and day of the next succeeding year. The fee for a renewal application under this subdivision shall be the fee specified in subdivision (b) and a delinquent fee in the amount specified for a one-year period in Section 1750 for the filing. Each licensee shall be subject to payment of delinquent fees under this section.

§1719 File Application for Renewal

The commissioner shall not issue any permanent license within 30 days prior to the expiration date on record for a previously licensed entity unless the person shall have also file an application for renewal of the license for that license year or term directly following the expiration date to which the application for renewal relates and shall have paid the fee for filing specified in Section 1750. As to the filing of the renewal application, the provisions of Section 1718 shall not be applicable.

§1720 Continue Operating 60 Days After License Expiration

(a) A license who has applied to renew a license under this chapter shall be entitled to continue operating under the existing license for 60 days after its specified expiration date, or until notified by the department that the renewal application is deficient, whichever comes first, if the applicant has satisfied all license renewal requirements, including, but not limited to, the following:

(1) The submission of the application renewal application and fee on or before the expiration date of the license.

(2) The satisfaction of all required continuing education or training requirements.

(b) This section shall not apply to any license that is suspended or revoked.

§1722 License Renewal – Military Service

If a natural person while licensed pursuant to the provisions of this chapter of Chapters 6 (commencing with Section 1760), **Chapter 7 (commencing with Section 1800)**, or 8 (commencing with Section 1831) of this part, or Part 5 (commencing with Section 12140) of Division 2 enters the Military Service of the United States and is in such at a time prescribed for the filing of a renewal application, the filing of such application is waived, and the license held by such licensee at the time of his entry into military service shall remain in force during the period of such military service and until the end of the license year in which he is released from such service but not for less than six months after such release. During such period such person may secure a license of the type held by him on his entry into military service upon the filing of an application and paying the fee therefore without the necessity of taking any examination or paying any penalty.

§1723 Applicant Conviction of Felony

(a) At the time any original or renewal license application that is submitted to the commissioner shows a conviction of the applicant of a felony involving dishonesty or breach of trust, or of a violation of Section 033 of Title 18 of the United States Code, the commissioner shall either commence a proceeding pursuant to Section 1668 or 1669, or Section 1738 in the case of a renewal application, or give written consent to the application or licensee pursuant to paragraph (2) of subsection (e) of Section 1033 of Title 18 of the United States Code.

(b) This section shall apply to all licenses and registrations issued by the commissioner pursuant to this code, whether included in this chapter or in any other chapter of this code, and without regard to whether another chapter incorporates the requirements of this section by reference.

§1724 Commission or Other Compensation – Active Member of State Bar of Calif.

An agent, broker, or solicitor who is not an active member of the State Bar of California may not share a commission or other compensation with an active member of the State Bar of California. For purposes of this section, "commission or other compensation" means pecuniary or nonpecuniary compensation of any kind relating to the sale or renewal of an insurance policy or certificate or an annuity, including, but not limited to, a bonus, gift, prize, award, or finder's fee.

§1724.5. Fictitious Names.

Every individual and organization licensee and every applicant for such a license shall file with the commissioner in writing the true name of the individual or organization and also all fictitious names under which he conducts or intends to conduct his business and after licensing shall file with the commissioner any change in or discontinuance of such names. The commissioner may in writing disapprove the use of any true or fictitious name (other than the bona fide natural name of an individual) by any licensee or on any of the following grounds:

- (a) Such name is an interference with or is too similar to a name already filed in use by another licensee;
- (b) The use of the name may mislead the public in any respect;
- (c) The name states, infers or implies that the licensee is an insurer, motor club, hospital service plan or entitled to engage in insurance activities not permitted under licenses held of applied for;
- (d) The name states or implies that the licensee is an underwriter. This subdivision shall not prevent a natural person who is a life licensee from describing himself as an "underwriter" or from using the designation "Chartered Life Underwriter" if entitled thereto nor shall it prevent a natural person who is a fire and casualty licensee from using the designation "Chartered Property and Casualty Underwriter" if entitled thereto nor a producers trade association each member of which is also separately licensed from having a name containing the word underwriter; or
- (e) The licensee has already filed and not discontinued the use of more than two names including the true name. This subdivision shall not prevent a licensee who has lawfully purchased or succeeded to the business or businesses of other licensees from using for each such business not more than two additional names, true or fictitious, consisting of names used by his predecessors in the conduct of such businesses.

A licensee may not use a true or fictitious name after being notified by the commissioner in writing that such use is contrary to this section. If the commissioner determines that there are facts in mitigation in connection with the continued use of such name he may permit its use for a specified reasonable period of time if in connection therewith he imposes such conditions as will protect the public and achieve the purposes of this section. Any such permission and any such conditions shall be written.

The grounds specified in subdivisions (a), (c), and (d) shall not be applicable to the true name of any organization licensee which on October 1, 1961, holds under such name any type of license issued under this chapter (commencing with Section 1621) or Chapter 8 (commencing with Section 1831) of this part nor to any fictitious name in use on October 1, 1961, by any individual or organization holding any type of license issued under this chapter or Chapter 8 of this part on such date, provided such fictitious name is filed with the commissioner on or before January 2, 1962.

The grounds specified in subdivisions (b) and (e) shall not be applicable to any licensee who, or which, on October 1, 1961, holds a license issued under this chapter or Chapter 8 of this part on and after January 2, 1964.

§1725.5 Bail License Numbers In Advertisements.

(a) For the purposes of Sections 32.5, 1625, 1626, 1724.5, 1758.1, 1765, 1800, 14020, 14021, and 15006, every licensee shall prominently affix, type, or cause to be printed on business cards, written price quotations for insurance products, and print advertisements distributed exclusively in this state for insurance products its license number in type the same size as any indicated telephone number, address, or fax number. If the licensee maintains more than one organization license, one of the organization license numbers is sufficient for compliance with this section.

(b) Effective January 1, 2005, for purposes of Sections 32.5, 1625, 1626, 1724.5, 1758.1, 1800, 14020, 14021, and 15006, every licensee shall prominently affix, type, or cause to be printed on business cards, written price quotations for insurance products, and print advertisements, distributed in this state for insurance products, the word "Insurance" in type size no smaller than the largest indicated telephone number.

(c) In the case of transactors, or agent and broker licensees, who are classified for licensing purposes as solicitors, working as an exclusive employee of a motor club, organizational licensee numbers shall be used.

(d) Any person in violation of this section shall be subject to a fine levied by the commissioner in the amount of two hundred dollars (\$200) for the first offense, five hundred dollars (\$500) for the second offense, and one thousand dollars (\$1,000) for the third and subsequent offenses. The penalty shall not exceed one thousand dollars (\$1,000) for any one offense. These fines shall be deposited into the Insurance Fund.

(e) A separate penalty shall not be imposed upon each piece of printed material that fails to conform to the requirements of this section.

(f) If the commissioner finds that the failure of a licensee to comply with the provisions of subdivision (a) is due to reasonable cause or circumstance beyond the licensee's control, and occurred notwithstanding the exercise of ordinary care and in the absence of willful neglect, the licensee may be relieved of the penalty in subdivision (d).

(g) A licensee seeking to be relieved of the penalty in subdivision (d) shall file with the department a statement with supporting documents setting forth the facts upon which the licensee bases its claims of relief.

(h) This section does not apply to any person or entity that is not currently required to be licensed by the department or that is exempted from licensure .

(i) This section does not apply to general advertisements of motor clubs that merely list insurance products as one of several services offered by the motor club, and do not provide any details of the insurance products.

(j) This section does not apply to life insurance policy illustrations required by Chapter 5.5 (commencing with Section 10509.950 of Part 2 of Division 2 or to life insurance cost indexes required by Chapter 5.6 (commencing with Section 20509.970) of Part 2 of Division 2.

(k) This section shall become operative January 1, 1997.

§1726. Internet.

(a) A person who is licensed in this state as an insurance agent or broker, advertises insurance on the Internet, and transacts insurance in this state, shall identify all the following information on the Internet, regardless of whether the insurance agent or broker maintains his or her Internet presence or if the presence is maintained on his or her behalf:

1. His or her name as it appears on his or her insurance license, and any fictitious name approved by the commissioner.
2. The state of his or her domicile and principle place of business.
3. His or her license number.

(b) A person shall be deemed to be transacting insurance in this state when the person advertises on the Internet, regardless of whether the insurance agent or broker maintains his or her Internet presence or if it is maintained on his or her behalf, and does any of the following:

1. Provides an insurance premium quote to a California resident.
2. Accepts an application for coverage from a California resident.
3. Communicates with a California resident regarding one or more terms of an agreement to provide insurance or an insurance policy.

§1727 Insurance Records Inspection and Maintenance

(a) The commissioner shall, after notice and hearing, promulgate reasonable rules and regulations specifying the manner and type of records to be maintained by those licensees acting as insurance agents and brokers and the location where the records shall be kept. Those records shall be open to inspection or examination by the commissioner at all times, and the commissioner may at any time require the licensee to furnish any information maintained or required to be maintained in those records.

(b) Every license acting as an insurance agent and broker shall keep the records as required by the regulations promulgated pursuant to subdivision (a).

(c) Every licensee acting as an insurance agent and broker employing a licensee in the capacity of an insurance solicitor shall keep the records required by the regulations promulgated pursuant to subdivision

(a) for any insurance transacted by the insurance solicitor in the capacity of the employee of the employing licensee.

§1729. Notice Of Change Of Address.

Every licensee and every applicant for a license shall immediately notify the commissioner in writing of any change in his address as given to the commissioner to Sections 1658 and 1728.

§1729.2 Notice of Change of Background Information.

(a) An applicant or licensee shall notify the commissioner when any of the background information set forth in this section changes after the application has been submitted or the license has been issued. If the licensee is listed as an endorsee on any business entity license, the licensee shall also provide this notice to any officer, director, or partner listed on that business entity license.

(b) A business entity licensee, upon learning of a change in background information pertaining to any unlicensed person listed on its business entity license or application therefor, shall notify the commissioner of that change. The changes subject to this requirement include changes pertaining to any unlicensed officer, director, partner, member, or controlling person, or any other natural person named under the business entity license or in an application therefore.

(c) The following definitions apply for the purposes of this section:

(1) "License" includes all types of licenses issued by the commissioner pursuant to Chapter 5 (commencing with Section 1621), Chapter 5A (commencing with Section 1759), Chapter 6 (commencing with Section 1760), Chapter 6.5 (commencing with Section 1781.1), Chapter 7 (commencing with Section 1800), and Chapter 8 (commencing with Section 1831) of Part 2 of Division 1, Chapter 4 (commencing with Section 12280) of Part 5 of Division 2, and Chapter 1 (commencing with Section 14000) and Chapter 2 (commencing with Section 15000) of Division 5.

(2) "Background information" means any of the following: a misdemeanor or felony conviction; a filing of felony criminal charges in state or federal court; an administrative action regarding a professional or occupational license; any licensee's discharge or attempt to discharge, in a personal or organizational bankruptcy proceeding, an obligation regarding any insurance premiums or fiduciary funds owed to any company, including a premium finance company, or managing general agent' and any admission, or judicial finding or determination, of fraud, misappropriation or conversion of funds, misrepresentation, or breach of fiduciary duty.

(3) "Applicant" and "licensee" include individual and organization applicants and licensees, and officers, directors, partners, members and controlling persons (as defined in subdivision (b) of Section 1668.5) of an organization.

(d) Notification to commissioner shall be in writing and shall be sent within 30 days of the date the applicant or licensee learns of the change in background information.

(e) The commission may adopt regulations necessary or desirable to implement this section.

§1730. Misrepresentation.

A licensee shall not misrepresent the type of license under which he is transacting insurance, nor shall he engage in transactions not authorized by the licenses held by him.

§1733. Fiduciaries; Theft Of Funds

All funds received by any person acting as an insurance agent, broker or solicitor, life agent, life analyst, surplus line broker, special lines surplus line broker, motor club agent, bail agent, permittee, administrator as defined in Section 1759, or solicitor, as premium or return premium on or under any policy of insurance or undertaking of bail, are received and held by such person in his fiduciary capacity. Any such person who diverts or appropriates such fiduciary funds to his own use is guilty of theft and punishable for theft as provided by law. Any premium which a premium financer agrees to advance pursuant to the terms of a premium finance agreement shall constitute fiduciary funds as defined in this section only If actually received by a person licensed in one or more of the capacities herein specified.

§1734. Deposit; Remittance Of Fiduciary Funds

This section applies to any person licensed, whether under a permanent license, restricted license, temporary license, or certificate of convenience, to act in any of the capacities specified in Section 1733. If fiduciary funds, as defined in Section 1733, are received by such person he shall:

(a) Remit premiums, less commissions, and return premiums received or held by him to the insurer or the person entitled thereto, or

(b) Maintain such fiduciary funds on California business at all times in a trustee bank account or depository in California, separate from any other account or depository, in an amount at least equal to the premiums and return premiums, net of commissions, received by him and unpaid to the persons entitled thereto or, at their direction or pursuant to written contract, for the account of such persons. As used in this section, "trustee bank account or depository" includes but is not limited to a checking account, demand account, or savings account, each of which shall be designated as a trust account. However, such person may commingle with such fiduciary funds in such account or depository such additional funds as he may deem prudent for the purpose of advancing premiums, establishing reserves for the paying of return commissions or for such contingencies as may arise in his business of receiving and transmitting premium or return premiums funds or

(c) Maintain such fiduciary funds pursuant to Section 1734.5.

§1734.5. Maintenance Of Fiduciary Funds

(a)(1) If fiduciary funds, as defined in Section 1733., are received by any person licensed, whether under a permanent license, restricted license, temporary license, or certificate of convenience, to act in any of the capacities specified in Section 1733., and the funds are not remitted or maintained pursuant to the subdivisions (a) and (b) of Section 1734., the funds shall be maintained as follows:

(A) United States government bonds and treasury certificates or other obligations for which the full faith and credit of the United States are pledged for payment of principal and interest;

(B) Certificates of deposit of banks or savings and loan associations licensed by any state government within the United States, or the United States government; or

(C) Repurchase agreements collateralized by securities issued by the United States government; or

(D) Either of the following:

(i) Bonds and other obligations of this state or any local agency or district of the State of California having the power, without limit as to rate or amount, to levy taxes or assessments upon all property within its boundaries subject to taxation or assessment by the local agency or district to pay the principal and interest of the obligations.

(ii) Revenue bonds and other obligations payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by this state, or a local agency or district or by a department, board, agency or authority thereof.

(2) The bonds and obligations described in subparagraphs (D) of paragraph (1) shall either have maturities of not more than one year or afford the holder of the obligation the unilateral right to redeem the obligation from its issuer within one year from date of purchase at the amount equal to or greater than its par value, and the bonds and obligations shall be required to be rated at least Aa1, MIG-1/VMIG-1 or Prime-1 by Moody's Investor Service, Inc., or AA, SP-1 or A-1 by Standard and Poor's Corporation.

(3) For the fiduciary funds maintained as provided in paragraph (1), the bonds, certificates, obligations, certificates of deposit, and repurchase agreements shall be valued on the basis of their acquisition cost.

(b) As a condition to maintaining the fiduciary funds pursuant to this section, a written agreement shall be obtained from each and every insurer or person entitled thereto authorizing the maintenance and the retention of any earnings accruing on the funds.

(c) Evidence of the funds shall be maintained on California business by a bank as defined in Section 102 of the Financial Code, or by a savings association as defined in Section 143 or 5102 of the Financial Code, in a custodian or trust account in California, separate from any other funds, in an amount at least equal to the premiums and return premiums, net of commissions received by him or her and unpaid to the persons entitled thereto, or, at their discretion or pursuant to a written contract, for the account of these persons. However, the persons may commingle with the fiduciary funds any additional funds as he or she may deem prudent for the purpose of advancing premiums, establishing reserves for the paying of return

premiums, or for any contingencies that may arise in his or her business of receiving and transmitting premium or return premium funds.

(d) The commissioner shall not have jurisdiction over any disputes arising between parties concerning the maintenance of fiduciary funds pursuant to this section. However, this subdivision shall not otherwise affect the authority granted to the commissioner over fiduciary funds by other provisions of this code, or regulations adopted pursuant thereto. As used in this subdivision, the term "parties" shall not include the commissioner.

(e) Investment losses to the principal of fiduciary funds maintained pursuant to this section are the responsibility of the person licensed, whether under a permanent license, restricted license, temporary license, or certificate of convenience, to act in any of the capacities specified in Section 1733, and any obligation to insurers or other persons entitled to the fiduciary funds shall in no way be diminished due to any loss in the value of the principal of the fiduciary funds held pursuant to this section.

§1736. Conduct.

If any acts are forbidden or conduct prescribed by any provisions of this code, such acts shall not be performed and such conduct shall be followed by both the organization and by any person named to exercise the power and perform the duties under any license issued to such organization.

§1736.5 Commission Inquiry – Prompt Reply

(a) Every licensee and applicant shall promptly reply in writing to an inquiry from the commissioner relative to an application for, or the retention or renewal of, a license, or an investigation relating to a consumer complaint or a matter relating to a producer licensing background change reporting requirement under Section 1729.2. The commissioner may revoke, suspend, or refuse to issue or renew a license if the licensee or applicant does not promptly reply in writing to an inquiry from the commissioner.

(b) For purposes of this section, "promptly reply" means to provide a written response to the inquiry that is received by the commissioner not later than 21 days after the date the inquiry was mailed or otherwise communicated to the applicant or licensee.

(c) For purposes of this section, the term "licensee" and "applicant" have the same definitions as those contained in paragraph (3) of subdivision (c) of Section 1729.2, and licenses covered in this section are the same as those covered by paragraph (1) of subdivision (c) of Section 1729.2.

§1737. Purpose of this Chapter.

The purpose of this chapter is to protect the public by requiring and maintaining professional standards of conduct on the part of all persons licensed hereunder.

§1738. Grounds to Suspend or Revoke License.

The commissioner may suspend or revoke any permanent license issued pursuant to this chapter on any grounds set forth in Article 6 hereof on which he may deny an application. Whenever in such grounds the word "applicant" is used, such word shall for the application of this section be the words "the holder of a permanent license." A suspension or revocation based upon a ground set forth in Section 1669 may be without notice or hearing. Suspension or revocation of any permanent license, except a restricted license, on a ground other than that set forth in Section 1669 shall be after notice and hearing conducted in accordance with Chapter 5, Part 1, Division 3, Title 2 of the Government Code, and the commissioner has all of the powers granted therein.

§1745. Failure To Keep Records.

A first failure to keep or maintain the books and records required under Section 1727 may be considered by the commissioner to be a minor offense if committed by a licensee described in Section 1746 and the commissioner may, in lieu of notice and hearing referred to in Section 1738, take disciplinary proceedings and action as set forth in Section 1746.

§1746. Minor Offenses; Order Reprimanding Licensee

If the commissioner has been informed and believes that a licensed fire and casualty broker-agent or life agent has committed any offense referred to in Section 1745, the commissioner may, without prior notice or hearing, mail to that licensee at his or her last address filed with the commissioner an order

reprimanding the licensee. That order shall specify the statute violated and the time of the violation, and shall further state that the order shall become effective commencing at a date specified therein not less than 15 days from the date of mailing, unless the licensee, prior to the effective date, advises the commissioner in writing that formal notice and hearing are requested, in which case the order shall become void and of no effect, and the commissioner may initiate proceedings pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

§1748. Penalty; In Lieu Of License Suspension Or Other Permitted Action.

The commissioner, in any proceeding under the provisions of this article, may, by an alternative order, permit a licensee to elect in writing to pay a specified money penalty, within a specified time in lieu of a license suspension or other permitted action. If the licensee so elects, the sum of money specified shall be paid to the commissioner for the use of the State of California. The sum specified shall not exceed:

- (a) Four thousand dollars (\$4,000) for each offense .
- (b) Twenty thousand dollars (\$20,000) in the aggregate for all offenses involved in any one proceeding.
- (c) Thirty percent of the gross commissions on insurance transacted by such licensee in the preceding calendar year.
- (d) Any amount proven, or admitted, in such proceeding to have been received and retained by such licensee as a rebate or otherwise, in violation of a provision of this code.

The commissioner shall determine the monetary penalty to be paid in any given case and in doing so shall not be limited to the selection of that penalty specified in any one of the above subdivisions, as compared with that in any of the other three subdivisions, that will result in the payment by the licensee of the least amount.

The amount of reimbursement the commissioner orders shall be the amount that fully reimburses the commissioner for the commissioner's costs, or any lesser amount that the commissioner determines is the most the subject of the order can pay in the event the subject is financially unable to full reimburse the commissioner.

If the licensee fails to pay a monetary penalty or reimbursement within the time specified in the order, the commissioner, unless the order is lawfully stayed, may deny a pending application for a license, or may revoke or suspend the license of the subject of the order for a period of time as determined by the commissioner. If, for any reason, an application is denied, or a license is revoked or suspended, before the subject of the order has paid the full amount of the ordered monetary penalty or reimbursement, the balance owed shall be paid before a license may be reinstated or an application for a new license may be granted.

BAIL LICENSES

Qualification and Licensing

§1800. License Requirement.

- (a) An insurer shall not execute an undertaking of bail except by and through a person holding a bail license issued as provided in this chapter. A person shall not in this state solicit or negotiate in respect to execution or delivery of an undertaking of bail or bail bond by an insurer, or execute or deliver such an undertaking of bail or bail bond unless licensed as provided in this chapter, but if so licensed, such person may so solicit, negotiate, and effect such undertakings or bail bonds without holding or being named in any license specified in Chapter 5 of this part.
- (b) For purposes of this section, "solicit" shall include any written or printed presentation or advertising made by mail or other publication, or any oral presentation or advertising by means of telephone, radio or television which implies that an individual is licensed under this chapter, and any activity in arranging for bail which results in remuneration to the individual conducting that activity.

§1800.4. Bail Bond Defined.

As used in this chapter, the term "bail bond" includes any contract not executed by a surety insurer for or method of release of person arrested or confined on account of any actual or alleged violation of the provisions of any law of this or any other State or of any municipality in the State of California, including any release by means of cash or other property deposited in lieu of bail under the provisions of Sections 1295 and 1298 of the Penal Code whereby the attendance in court when required by law and obedience to orders and judgment of any court by the person released is guaranteed.

§1800.5. Exempt Transactions.

This chapter shall not affect the negotiation through a licensed broker or agent for, nor the execution or delivery of an undertaking of bail, executed by an insurer for its insured under a policy of automobile insurance or of liability insurance upon the automobile of the insured, nor shall this chapter effect the negotiation for, or the execution or delivery of bail or bail bond which is authorized by Part 5, Division 2 of this code.

§1800.6. Local Regulations.

This chapter shall not limit the power of any city or county to enact other and further regulations concerning, and not in conflict with, provisions of this chapter.

§1800.7. Execution Of Bail Bonds By Individuals.

Any individual person may execute or furnish a bail bond if no consideration is paid or allowed, directly or indirectly, by any person for the execution or furnishing thereof, provided such person does not in connection with such execution or furnishing violate Section 1800.75.

§1800.75. Unauthorized Advertising.

No person shall advertise or hold himself out as engaging in the business of executing, delivering, or furnishing bail bonds or undertakings of bail whether or not for consideration without holding at the time thereof all proper licenses required by this chapter.

§1800.8. Permits.

The permits required by this chapter are in addition to any and all other permits or licenses required by law.

§1801. Bail Licenses.

Bail licenses are:

- (a) Bail agents' licenses;
- (b) Bail permittees' licenses;
- (c) Bail solicitors' licenses.

§1802. Bail Agent's License; Bond.

A bail agent's license by its terms permits the licensee to solicit, negotiate, and effect undertakings of bail on behalf of any surety insurer while there is in effect an unrevoked notice of appointment of such insurer filed pursuant to Section 1802.1. Such license shall not be issued unless and until there is filed with the commissioner a bond having an admitted surety insurer as surety thereon in the penal sum of one thousand dollars (\$1,000.00), conditioned upon the proper application and disposal of all moneys collected or received by the bail agent, his solicitors licensed pursuant to his appointment, and his employees, in favor of the people of the State of California.

§1802.1. Notice Of Appointment; Filing; Contents; Duration.

Every applicant for a license to act as bail agent must file with the commissioner a notice of appointment executed by a surety insurer or its authorized representative authorizing such applicant to execute undertakings of bail and to solicit and negotiate such undertakings on its behalf. Additional notices of appointment may be filed by other surety insurers, upon the payment for each additional notice of the fees specified in subdivision (a) of Section 1811 before such license is issued and thereafter, as long as such license remains in force. Each appointment shall, by its terms, continue in force until:

- (a) Termination of the bail agent's license;
- (b) The end of the license year, if the fee provided in subdivision (d) of Section 1811 for filing an annual notice of intention to keep the license in force or a renewal application is not paid; or
- (c) The filing of a notice of termination by the insurer, its representative, or by such bail agent.

§1802.2. Use Of Predecessor's Business Name.

Any bail licensee who has purchased or succeeded to the bona fide business of another bail licensee shall be entitled to use a true or fictitious name used by his predecessor if the predecessor has conducted the business for a period of two consecutive years or more.

§1802.5. Bail Permittee's License.

A bail permittee's license, by its terms, permits the licensee to solicit, negotiate, issue and deliver bail bonds. Such license shall not be issued unless and until there is filed with the commissioner:

- (a) A bond having an admitted surety insurer as surety thereon in the penal sum of \$5,000, conditioned upon the proper application and disposal of all moneys collected or received by the bail permittee, his solicitors licensed pursuant to his appointment, and his employees, in favor of the people of the State of California.

§1802.6. Additional License.

The holder of a bail permittee's license may, upon filing of proper documents specified in Section 1802.1, receive a bail agent's license without procuring the additional bond specified in Section 1802.

§1802.7. Deposit Of Securities In Lieu Of Bond

Any applicant may deposit with the commissioner, in lieu of a bond required by this chapter, securities of the kind and character set forth in sections 1170 to 1175, and 1179 to 1240, in a sum not less than the required amount of the penal sum of said bond. Such securities shall be held in trust by the commissioner for the fulfillment of the same terms and conditions as in the case of a bond required by section 1802.5.

§1802.71. Substitution Of Bond For Securities; Conditions.

The holder, or former holder of a bail license, who has deposited with the commissioner securities in lieu of a bond as provided by Section 1802.7, may at any time substitute therefor a bond complying with requirements of Section 1802, 1802.5, or 1803, as the case may be. Such a bond must embrace all liability theretofore existing or which may thereafter be incurred for the fulfillment of which the securities have been held, whether reported or unreported.

The substitution of such a bond for securities shall be conditioned upon approval of the commissioner. Upon receiving such approval and the filing of the bond, the applicant shall be permitted to withdraw the securities theretofore deposited on his behalf.

§1802.72. Application For Recovery Of Securities.

The former holder of any bail license, who has surrendered any and all licenses to the commissioner, and who has on deposit with the commissioner securities in lieu of bond as provided by Section 1802.7, may, not sooner than three years after the surrender of his last bail license apply to the commissioner for the return of the securities.

§1802.73. Form And Contents Of Application.

The application shall be in writing, verified, and shall state:

- (a) The nature of all bail licenses held by the applicant and the period during which the applicant was authorized to transact bail business under each;
- (b) All of the counties in which the applicant transacted bail under the authority of each license;
- (c) That all bail transacted by applicant, and his solicitors and employees, if any, has been exonerated by order of court, and that his liability as surety on all bail transactions has been discharged;
- (d) The date upon which the last liability of the applicant on a bail transaction was fully exonerated and discharged;

(e) That all moneys collected or received by the applicant, and his solicitors and employees, if any, have been paid to the person or persons entitled thereto and have in all respects been fully and properly accounted for.

§1802.74. Notice Of Application; Publication; Payment Of Expenses

The commissioner shall publish daily for one week in a newspaper of general circulation in each county in which the applicant transacted bail under any license, a notice of the application to withdraw the securities deposited with the commissioner in lieu of bond. The expense of the publication shall be borne by the applicant and the commissioner may require the applicant to pay it in advance.

§1802.75. Examinations.

The Commissioner shall make an examination of the books and records of the applicant. The costs and expenses of the examination shall be paid by the commissioner out of funds appropriated for support of the Department of Insurance.

§1802.76. Recovery Of Publication Expense.

Upon failure of the applicant to pay the expense of publication of notice within 30 days after the presentation of the bill therefor, the commissioner shall collect the costs out of the deposited securities.

§1802.77. Delivery Of Securities To Applicant.

If the commissioner is satisfied from the application and the examination of the books and records of the applicant that the applicant has, in fact, complied with the representations made in his application, the commissioner shall deliver to the applicant the securities deposited; provided, however, the commissioner shall not deliver the securities to the applicant prior to the expiration of three years after the latest date on which a bond was issued or written by the applicant.

§1803. Bail Solicitor's License.

A bail solicitor's license, by its terms, permits the licensee to transact bail on behalf of and as the employee of the holder of the bail licenses therein designated while there is in effect and on file with the commissioner an unrevoked appointment of the solicitor by such license holder. In all matters respecting the transaction of bail, it shall be conclusively presumed that such solicitor acted on behalf of and pursuant to the instructions of the appointing license holder. A bail solicitor's license shall not be issued until there is filed with the commissioner an appointment of such solicitor, effective upon issue of the license executed by the holder of a bail agent's license or bail permittee's license, or both such licenses. Such appointment shall state that the license holder appoints the solicitor and will employ him in the transaction of bail, until notice is filed with the commissioner revoking the appointment. Such appointment and license shall permit the bail solicitor to transact only the undertakings of bail or bail bonds which the license or licenses of the appointing license holder permits such license holder to transact. Before the issuance of a bail solicitor's license, the applicant shall file a bond in the penal sum of one thousand dollars (\$1,000) conditioned upon the proper application and disposal of all moneys collected or received by the solicitor, in favor of the people of the State of California.

§1804. Application For License

An applicant for bail license shall file with the commissioner an application in such form and having such supporting documents as the commissioner prescribes, except that the application

shall be verified in the manner provided for verification of complaints in civil cases. The commissioner shall investigate the licensees in such manner and in respect to such matters as he deems advisable.

§1805. Requirements For Issuance Of License.

The commissioner may decline to issue a bail license until he is satisfied that:

- (a) The applicant is of good business reputation and of good general reputation.
- (b) That the applicant has never been refused a license or had a license revoked by any public authority for reasons which indicated lack of honesty or integrity, or which show improper business practice on the part of the applicant.
- (c) That the applicant has an understanding of the obligations and duties of bail.
- (d) That the applicant has not participated in or been connected with any business transaction which, in the opinion of the commissioner tends to show unfitness to act in a fiduciary capacity or to maintain the standards of fairness and honesty required of a trustee or other fiduciary.
- (e) That the applicant has not willfully misstated any material fact in his application or procured a misstatement in the supporting documents thereof.
- (f) That there is no outstanding judgment against the applicant of conviction of a misdemeanor or felony denounced by this code, or one of the elements of which involves a misappropriation of money or property.
- (g) That the applicant has not committed an act forbidden by this code.
- (h) That the applicant is a fit and proper person to hold the license applied for.
- (i) The applicant has been a continuous resident of the State of California for at least two years.

§1806. Suspension, Revocation And Refusal Of License; Grounds.

The commissioner may suspend, revoke or refuse to issue any license under this chapter whenever it is made to appear to him that the holder of such permit is not a fit or proper person to be permitted to continue to hold or receive such license.

§1807. Suspension Or Revocation Of License.

The commissioner may suspend or revoke any bail license for any cause for which he could deny such license.

§1807.5. Suspension Or Revocation Of License; Hearing.

The commissioner shall not suspend or revoke any license, issued under this article, without first granting a hearing, upon reasonable notice to the applicant, except that he may temporarily suspend any such license for a period not exceeding 15 days pending such hearing. 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.

§1807.7. License Periods.

Commencing with July 1, 1946, all licenses issued under this article shall be for license periods the length of which shall be fixed by the commissioner, said length never to exceed four years. Such licenses may be issued for all of the said periods, or upon application made during any period for the balance thereof. If any such license period is fixed at a term in excess of one year, licenses may be kept in force from year to year until expiration by the filing, in the form prescribed and provided by the commissioner, of annual notices of intention to keep licenses in force pursuant to section 1808 and by the payment of the fees referred to therein.

§1808. Renewal Of License.

(a) Annual notices of intention to keep licenses in force or applications for renewal of licenses, as the case may be, may be filed on or before June 30th of each year upon payment of the fees for filing specified in Section 1811.

(b) Upon failure to file such notice or application as provided in subdivision (a), the license shall expire on July 1st, but the holder may file an application for a new license. Until June 30th next succeeding the fee shall be twice that specified in Section 1811 for such filing.

(d) No notice or application shall be deemed filed within the meaning of this section unless the document itself has been actually delivered to, and the proper fee for its filing has been paid at, the office of the commissioner during office hours, or unless both such document and fee have been filed and remitted pursuant to Sections 11002 and 11003 of the Government Code.

§1809. Unlawful Rebate Laws Inapplicable.

The provisions of law relating to unlawful rebates shall not apply to commissions or other consideration paid or exchanged between licensees under this chapter, except that in such case the licensee who executes the undertaking or executes or delivers the bail bond shall, in all matters in respect thereto, be deemed the principal and all licensees otherwise connected with the transaction shall be deemed his agents in respect thereto.

§1810. Who May Be Licensed.

(a) Natural persons can be licensed under this chapter.

(b) A license may be held by a corporation, in which case all of the following requirements shall be met:

(1) The application shall set forth the names of all officers and employees of the licensee who will be authorized to exercise the powers of the licensee under this chapter. Each of those persons shall be required to meet the requirements for licensure under this chapter, and disciplinary action may be taken against any of those persons, and the licensee, if any of those persons does any act that would be grounds for disciplinary action against a licensee.

(2) The corporation may solicit or negotiate the execution or delivery of bail on behalf of surety insurers only through natural persons who hold individual licenses as bail agents.

(3) One hundred percent of the shares of the corporation shall be held by licensed bail agents.

(4) All shareholders, officers and directors of the corporation shall be licensed bail agents, and shall be disclosed to the department.

(5) Any sale or transfer of stock or other interest in the corporation shall require the prior approval of the department. The department shall approve or disapprove a request for approval within 60 days of receiving the completed request.

§1810.5. Examinations.

The commissioner shall not issue a bail license to any person unless and until the applicant takes and passes an examination given by the commissioner as provided in this chapter. This prohibition shall not apply with respect to persons who were licensed under this chapter during any part of the annual period terminating on July 1st preceding the time to be covered by the license applied for.

§1810.6. Conduct Of Examination.

The commissioner shall conduct or arrange for written examination to be given at least twice a year upon questions proposed by the commissioner as to the qualifications of applicants to hold a bail license. The examination shall be of sufficient scope to satisfy the commissioner that the applicants have knowledge of, and are reasonably familiar with, the laws of this State relating to the giving of bail and the execution and delivery of undertakings of bail, and have a general and fair understanding of the obligations and duties of the holder of a bail license in respect to the conduct of business under each type of bail license.

§1810.7. Education Requirements For Applicants And Licensees; Approval Of Licensing Course Providers; Fees.

(a) In order to be eligible to take the examination required to be licensed under this chapter, the applicant shall have completed not less than 12 hours of classroom education in subjects pertinent to the duties and responsibilities of a bail licensee, including, but not limited to, all laws and regulations related thereto, rights of the accused, ethics, and apprehension of bail fugitives. Additionally, a licensee shall complete annually not less than six hours of continuing education in these subjects prior to renewal of his or her license.

(b) The commissioner shall approve or disapprove an applicant to provide education for licensure as required by this section within 90 days of receipt of the applicant's full and complete application. However, this 90-day period shall be tolled during the pendency of any investigation of the applicant by the commissioner for an alleged violation that would, if proven, result in the suspension, revocation, or denial of the provider's approval to provide continuing education to bail agents as prescribed in Section 1813. Failure to disapprove an applicant within this period shall result in the automatic approval of the application. Approval shall be valid for two years. The commissioner may, at any time, disapprove any provider who is not qualified or whose course outlines are not approved, who is not of good business reputation, or who is lacking in integrity, honesty, or competency. A provider shall not provide education for licensure following the expiration of the two-year approval period unless the commissioner has renewed the provider's approval. The commissioner shall, at the time of renewal, approve or disapprove the course outlines and schedule of classes to be provided.

(c) Providers responsible for providing education for licensure under this chapter shall consult with the California State Sheriffs' Association, the California District Attorneys Association, and the County Counsels Association prior to submission of the course outlines for approval by the commissioner, and these entities may respond within 30 days of receipt of a request for consultation from a provider. Providers shall maintain records of their requests for consultation and any responses from these entities, and make these records available to the department for review as requested. The bail license fee shall be increased, the amount of which shall be determined by the commissioner, which shall be deposited in the Insurance Fund for purposes of recovering the administrative costs for meeting the conditions and purposes of this section.

Providers of education or continuing education shall offer courses to all applicants at the same course fees.

(d) Any person who falsely represents to the commissioner that compliance with this section has been met shall be subject, after notice and hearing, to the penalties and fines set out in Section 1814.

(e) A licensee shall not be required to comply with the continuing education requirements of this section if the licensee submits proof satisfactory to the commissioner that he or she has been a licensee in good standing for 30 continuous years in this state and is 70 years of age or older.

(f) The commissioner may make reasonable rules and regulations necessary, advisable, and convenient for the administration and enforcement of this chapter. The rules and regulations may include a schedule establishing fees to be paid by the applicant seeking approval to act as a provider and to deliver courses under this section. Those fees shall be in an amount no greater than fees paid by applicants providing similar courses to other insurance agents licensed by the department, as specified in Section 1751.1.

(g) Nothing in this chapter shall preclude completion of the bail agent continuing education requirements of this section through a course of instruction offered via the Internet or correspondence. However, this subdivision shall not be construed to allow completion of the prelicensing education requirements of this section through such a course of instruction.

(h) Successful completion of the continuing education requirements by means of an Internet or correspondence course shall require obtaining a passing grade of at least 70 percent on a written final examination. The final examination shall be open book and shall be graded by the approved provider. The provider shall issue certificates of completion only to those students who have passed the final examination.

(i) No Internet or correspondence continuing education course shall be provided pursuant to this section prior to April 1, 2006. However, this subdivision shall not prohibit an approved provider from advertising or promotion a course prior to that date.

§1810.8. Temporary License For Executor Or Administrator Of Licensee's Estate.

The commissioner may issue a temporary license to the executor or administrator of the estate of a deceased holder of a bail agent's license or bail permittee's license, permitting such party to act as such representative to exercise the rights and privileges of such a license holder for the purpose of conducting the business of the estate for a period of one year from and after the date of the death, pending, but not after, the disposal of the business.

§1810.9. License Renewal.

A renewal license shall be issued by the commissioner to a licensee upon proof of current licensure, payment of a renewal fee, and completion of the continuing education requirements as required by subdivision (a) of Section 1810.7.

§1811. Fees. (**Note: although the code reads as follows, fees in italics are increased effective 01/01/2004*)

For his services in connection with the filing of any application or request for any license under this chapter, the commissioner shall charge and collect the following fees:

(a) For filing an application or request for bail agent's license, one hundred eighteen dollars (\$118). *(new fee: \$241.)*

(b) For filing an application or request for bail solicitor's license, one hundred eighteen dollars (\$118). *(new fee: \$241.)*

(c) For filing an application or request for bail permittee's license, two hundred thirty-six (\$236). *(new fee: \$481.)*

(d) For filing an application for examination, or reexamination twenty-four dollars (\$24). *(new fee: \$48.)*

(e) For filing each annual notice of intention to keep a bail agent's license in force or a renewal application, a fee of thirty-five dollars (\$35). *(new fee: \$72.)* In the case of a bail agent with more than one valid notice of appointment on file, the fee to be charged pursuant to this subsection shall be the fee provided herein multiplied by the number of insurers whose valid appointments are on file at the date such document is filed unless such bail agent in such document advises the commissioner of his intent to terminate the appointment of one or more such insurers, in which event the fee shall be based upon the number for insurers remaining.

(f) For filing each renewal notice of intention to keep a bail solicitor's license in force or a renewal application, a fee of thirty-five dollars (\$35). *(new fee: \$72.)*

(g) For filing each renewal notice of intention to keep a bail permittee's license in force or a renewal application, a fee of one hundred forty-eight dollars (\$148). *(new fee: \$303.)*

(h) At the time of filing an application for a license, if a qualifying examination is required for issue or in connection with such license, the fee for filing the first application to take the qualifying examination shall be paid at the time of filing application for the license.

(i) For filing application or request for approval of a true or fictitious name pursuant to Section 1724.5, twelve dollars (\$12) *(new fee: \$24.)*, except that there shall be no fee when such name is contained in an original application.

(j) For filing a bond required by this chapter, except when such bond constitutes part of an original application, ten dollars (\$21).

(k) For filing a first amendment to an application, six dollars (\$6). *(new fee: \$13.)*

(l) For filing a second and each subsequent amendment to an application, twelve dollars (\$12). *(new fee \$24.)*

§1812. Rule Making Power.

The commissioner may make reasonable rules necessary, advisable, or convenient for the administration and enforcement of the provisions of this chapter.

§1813. Suspension, Revocation And Denial Of License.

The commissioner, after notice and hearing, in accordance with the procedure provided in Article 13 (commencing with Section 1737) of Chapter 5 may suspend, revoke, or deny any license or certificate of authority issued pursuant to any provision of this code whenever he or she finds that the holder thereof has violated any provisions of this chapter.

§1814. Violations; Fine And Imprisonment.

The violation of any foregoing provision of this chapter, or of any rule of the commissioner made pursuant thereto, is a public offense, punishable by fine not exceeding ten thousand dollars (\$10,000), or by imprisonment in the state prison, or in the county jail not exceeding one year, or by both such fine and imprisonment.

§1815. Lists Of Licensees.

(a) The commissioner shall certify the names of holders of bail agents' and bail permittees' licenses and their solicitors to every county clerk of the State, together with their license numbers and any other information in respect to the persons as he or she considers advisable. He or she shall promptly upon termination, for any cause, of any license, notify the respective county clerks.

(b) The county clerk shall retain these records for a period of two years, after which time the active bail licensee list and updates may be destroyed and, notwithstanding Section 26205.1 of the Government Code, no reproduction thereof need be made or preserved.

§1819. Commissioner's Certificate As Prima Facie Evidence.

The certificate of the commissioner certifying any facts found after hearing held under this chapter shall be prima facie evidence of the facts set forth therein.

§1820. Display Of License.

Every bail license shall be prominently displayed in the office of the licensee.

§1821. Refusal Of License.

A license shall not be refused by the commissioner without proceedings in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, being initiated within 60 days from the date of filing the completed application.

Sections 1724.5, 1733, 1734, 1735 and Articles 6 (commencing with Section 1666) and 13 (commencing with Section 1737) of Chapter 5 apply to persons licensed under this chapter, and "insurance agent" or "licensee", as used in those provisions, include persons licensed under this chapter.

§1822. Change Of Address.

A licensee or applicant for a license under this chapter shall notify the commissioner, in writing, of any change in the address from which he intends to conduct his business.

§1823. Moneys To Be Kept In Trust Accounts.

All surety companies which execute undertakings of bail shall keep any moneys collected from agents licensed pursuant to this code as buildup or reserve funds in segregated trust accounts within the state. These accounts shall be maintained as any of the following:

- (a) A Federal Deposit Insurance Corporation (FDIC) insured account.
- (b) United States government bonds and treasury certificates or other obligations for which the faith of the United States is pledged for the payment of principal and interest.
- (c) Repurchase agreements collateralized by securities issued by the United States government.
- (d) A money market fund that limits its portfolio to those securities listed in subdivisions (a) and (b).

The accounts described in this section shall not be hypothecated or offered as collateral.

The accounts described in this section shall be used to satisfy the unfulfilled obligations of the undertakings of bail written by the agents from whom the moneys have been collected and to otherwise satisfy the unfulfilled obligations which may be owing to the surety by those agents.