

35. "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.

791.13. 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** institution's 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).

(s) To an insured when the information disclosed is from an accident report, supplemental report, investigative report or the actual report from a government agency or is a copy of an accident report or other report which the insured is entitled to obtain under Section 20012 of the Vehicle **Code** or subdivision (f) of Section 6254 of the Government **Code**.

1724. 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. 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 on any of the following grounds:

(a) Such name is an interference with or is too similar to a name already filed and 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 or 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 ground 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 until on and after January 2, 1964.

1725. Every license to act as a fire and casualty broker-agent shall be prominently displayed by the holder thereof in his or her office in a manner whereby anyone may readily inspect it and ascertain both its currency and the capacity in which its holder is licensed to act.

1725.5. (a) For 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, 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 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 exclusive employees of motor clubs, 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) or (b) 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 for 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 10509.970) of Part 2 of Division 2.

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

1726. (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 of 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 principal 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. (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 licensee 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 employee of the employing licensee.

1728. Every resident **insurance** fire and casualty broker-agent shall maintain a principal office in this state for the transaction of business. The address of the office shall, pursuant to Section 1658, be specified on all applications for license and renewal applications.

1729. 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 pursuant to Sections 1658 and 1728.

1729.2. (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 therefor.

(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 the 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 commissioner may adopt regulations necessary or desirable to implement this section.

1729.5. A fire and casualty broker-agent or life agent who has a service contract with a corporation licensed under this **code** or who is a stockholder or member of any incorporated association or corporation organized under the Corporations **Code** for the purpose of providing services to fire and casualty broker-agents or life agents may use the name of such a corporation or association on any stationery or advertisements and other written or printed matter used to identify the business of the fire and casualty broker-agent or life agent provided that the name of the fire and casualty broker-agent or life agent is clearly identified as bearing only that relationship to the corporation or association in one of the following ways:

"Representing ____;"

"A stockholder of ____;"

"Placing business through ____;"

"Using services of ____."

The use of the corporation or association name in the manner provided in this section shall not constitute such use as would mislead the public within the meaning of Section **1724.5**.

1730. 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.

1730.5. A life agent and a fire and casualty broker-agent shall provide to all insureds or applicants at the time of application or receipt of premium moneys the effective date of coverage, if known,

or the circumstances under which coverage will be effective if there exists conditions precedent to coverage. This section shall apply only to coverage for personal lines of **insurance**, such as private passenger automobile, homeowner and renter **insurance**, personal liability, and individual disability and health **insurance**.

1730.6. (a) Every fire and casualty broker-agent shall, prior to arranging premium financing or transacting any agreement for the periodic payment of premium for any new or renewal policy of **insurance** specified in Section 660, disclose to any applicant or prospective insured any options for premium financing or the periodic payment of premium from the insurer or, if applicable, the California Automobile Assigned Risk Plan, that are available for the **insurance** being purchased. This disclosure may be in the form of a written document. In the event the applicant or prospective insured elects to enter into an agreement for premium financing, the fire and casualty broker-agent shall comply with the requirements of Section 778.4.

(b) For purposes of this section and Section 778.4:

(1) "Periodic payment of premium" means the payment plan provided by the California Automobile Assigned Risk Plan, or a payment plan provided by the insurer that allows the total premium to be paid in more than one installment.

(2) "Arrange premium financing" means assisting an applicant or prospective insured to arrange for payment of the premium through a premium finance agreement as defined in Section 778.1.

1731. A person licensed as a broker-agent shall be deemed to be acting as an **insurance** agent in the transaction of **insurance** placed with those insurers for whom a notice of appointment has been filed with the **Insurance** Commissioner in accordance with Section 1704 and is then in force.

1732. A person licensed as a fire and casualty broker-agent acting as an **insurance** broker may act as an **insurance** agent in collecting and transmitting premium or return premium funds and delivering policies and other documents evidencing **insurance**.

1733. 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 that person in his or her fiduciary capacity. Any such person who diverts or appropriates those fiduciary funds to his or her own use is guilty of theft and punishable for theft as provided by law. Any premium that a premium financier 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. 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 premium funds, or

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

1734.5. (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 subdivisions (a) and (b) of Section 1734, the funds shall be maintained in any of the following:

(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.

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

(D) Either of the following:

(i) Bonds and other obligations of this state or of 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 subparagraph (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 an 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 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 person 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, "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 to the principal of the fiduciary funds held pursuant to this section.

1746. 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**.

1800. (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. 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. 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 affect the negotiation for, or the execution or delivery of an undertaking of bail or bail bond which is authorized by Part 5, Division 2 of this **code**.

1800.6. This chapter shall not limit the power of any city or county to enact other and further regulations concerning, and not in conflict with, the provisions of this chapter.

1800.7. 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. 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. The permits required by this chapter are in addition to any and all other permits or licenses required by law.

1801. Bail licenses are:

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

1802. 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), 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. 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. 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. A bail permittee's license, by its terms, permits the licensee to solicit, negotiate, issue, and deliver bail bonds. The 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 five thousand dollars (\$5,000), conditioned upon the proper application and disposal of all moneys collected or received by the bail permittee, his or her solicitors licensed pursuant to his or her appointment, and his or her employees, in favor of the people of the State of California.

1802.6. 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. 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. 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 the 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 the 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. 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. 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. 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. 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. 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. 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. 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. 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. 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. 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. The commissioner may suspend or revoke any bail license for any cause for which he could deny such license.

1807.5. 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. 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. (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.

(c) 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. 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. (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. 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 the July 1st preceding the time to be covered by the license applied for.

1810.6. 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. (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 of California 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 the 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 an 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 promoting a course prior to that date.

1810.8. 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. 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. 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).

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

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

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

(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). 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).

(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).

(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), 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 (\$10).

(k) For filing a first amendment to an application, six dollars (\$6).

(1) For filing a second and each subsequent amendment to an application, twelve dollars (\$12).

1812. The commissioner may make reasonable rules necessary, advisable, or convenient for the administration and enforcement of the provisions of this chapter.

1813. 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. 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. 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 such persons as he considers advisable. He shall promptly upon termination, for any cause, of such license, notify the respective county clerks.

1819. 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. Every bail license shall be prominently displayed in the office of the licensee.

1821. 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. 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. 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.