

## Assembly Bill No. 393

### CHAPTER 321

An act to amend Sections 700, 1631, 1635, 1639, 1642, 1649.5, 1676, 1703, 1749, 1749.6, 1750, 1750.5, and 1751 of, and to add Sections 1625.5, 1631.5, 1749.31, and 1751.8 to, and to add Article 16.7 (commencing with Section 1758.9) to Chapter 5 of Part 2 of Division 1 of, the Insurance Code, relating to insurance.

[Approved by Governor September 5, 2000. Filed  
with Secretary of State September 7, 2000.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 393, Scott. Insurance: production agencies.

(1) Existing law prohibits an insurer from transacting insurance in the state unless the insurer has procured a certificate of authority from the Insurance Commissioner. Existing law requires an insurer that has procured a certificate of authority to continue to comply with the requirements as to its business set forth in the Insurance Code and in other laws.

This bill would clarify that continued compliance in this regard includes, but is not limited to, compliance with existing law governing the licensure and operation of production agencies, with regard to employees or contractors who solicit, negotiate, or effect insurance.

(2) Existing law generally prohibits a person from acting as an insurance agent, life agent, insurance broker, or insurance solicitor unless that person holds a valid license issued by the Insurance Commissioner authorizing the person to act in that capacity. Existing law makes it a crime to act in a capacity for which a license is required without a valid license.

This bill would instead prohibit a person from acting in one of those capacities, or from soliciting, negotiating, or effecting contracts of insurance, unless the person holds a valid license authorizing the person to act in that capacity. It would provide that the issuance of a certificate of authority to an insurer does not exempt an insurer from compliance in this regard. By expanding the scope of activities for which a valid license is required, this bill would expand the scope of an existing crime, thereby imposing a state-mandated local program.

(3) Existing law provides that, notwithstanding the prohibition described in (2) above, no license is required for a person to act in certain specified capacities or to engage in certain specified activities, including (i) employment by an insurer at its home or branch office which, among other things, does not include the



solicitation or negotiation of insurance, and (ii) employment as a regularly salaried administrative or clerical employee of a licensed fire and casualty broker-agent, where the employee devotes substantially all of his or her services to activities other than the solicitation of insurance from the insuring public.

Existing law provides that these and the other enumerated exceptions to licensure apply only if no commission is paid or allowed, directly or indirectly, for acting in those capacities or engaging in those activities.

This bill would provide for an exception to licensure for employment by an insurer at its home or branch office which, among other things, does not additionally include the effecting of insurance, for employment as a regularly salaried administrative or clerical employee of a licensed fire and casualty broker-agent where the employee's activities do not include the solicitation, negotiation, or effecting of contracts of insurance from the insuring public, and for employment by an insurer where the employee's duties are inspection, processing, investigation, or settling of claims, conducting safety inspections, or accepting or rejecting business from licensed agents or brokers. This bill would also provide for an exception to licensure with respect to officers, directors, or employees of an insurer or producer whose executive, administrative, managerial, or clerical activities are only indirectly related to solicitation, negotiation, or effecting the sale of insurance, as specified. This bill would also provide for an exception to licensure with respect to certain other employees.

This bill would provide that these and the other enumerated exceptions to licensure apply only if no commission is paid or allowed, directly or indirectly, by the insurer, creditor, retailer, or other person for acting in those capacities or engaging in those activities.

(4) Existing law makes no specific provision for the licensure of personal lines broker-agents.

This bill would specifically establish a personal lines broker-agent license for persons who sell automobile insurance, residential property insurance, including earthquake and flood insurance, personal watercraft insurance, and umbrella or excess liability insurance, as specified. It would enact related provisions, including provisions regarding precensuring and continuing education qualifications and, licensure fees for personal lines broker-agent licensees, and various other matters. This bill would require the Department of Insurance to investigate and implement a system, and report to the Legislature in regard to the system, permitting license fees to be paid electronically by employers on behalf of their employees, as specified. This bill would also establish a credit insurance agent license for organizations that sell specific types of insurance in connection with, and incidental to, a loan or extension of credit other than a loan in excess of \$60,000 relating to or secured



by real property where the repayment period does not exceed 10 years. The bill would exempt from general provisions limiting increases in insurance related fees, as specified, the licensure fees for credit insurance agents for the years 2002, 2003, and 2004. The bill would require the sale of credit insurance to be accompanied by specified disclosures to the consumer. This bill would require the Insurance Commissioner to report to the legislature by June 30, 2004, regarding the effectiveness of the bill's provisions regulating credit insurance agents in protecting consumers involved in credit insurance transactions.

(5) This bill would become operative on January 1, 2002, and would require the Insurance Commissioner to adopt as emergency regulations rules to implement the bill's provisions.

(6) This bill would provide that the first-year startup costs incurred by state agencies that are associated with the implementation of this bill shall be reimbursed from the fee revenues authorized by this bill that are received in subsequent years.

(7) By adding new production agency licensure categories, this bill would expand the scope of activities for which a valid license is required, thereby expanding the scope of an existing crime and imposing a state-mandated local program.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. Section 700 of the Insurance Code is amended to read:

700. (a) A person shall not transact any class of insurance business in this state without first being admitted for that class. Admission is secured by procuring a certificate of authority from the commissioner. The certificate shall not be granted until the applicant conforms to the requirements of this code and of the laws of this state prerequisite to its issue.

(b) The unlawful transaction of insurance business in this state in willful violation of the requirement for a certificate of authority is a public offense punishable by imprisonment in the state prison, or in a county jail not exceeding one year, or by fine not exceeding one hundred thousand dollars (\$100,000), or by both that fine and imprisonment, and shall be enjoined by a court of competent jurisdiction on petition of the commissioner.

(c) After the issuance of a certificate of authority, the holder shall continue to comply with the requirements as to its business set forth



in this code and in the other laws of this state, including, but not limited to, Chapter 5 (commencing with Section 1631), with regard to employees or contractors who solicit, negotiate, or effect insurance.

(d) Where a hearing is held under this section the proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the commissioner shall have all the powers granted therein.

(e) The commissioner shall either issue or deny an application for a certificate of authority within 180 calendar days after the date of the application.

(f) The commissioner and his or her authorized representative shall be prohibited from seeking a waiver to extend the 180 calendar day period specified in subdivision (e), nor shall the applicant be permitted to waive that period.

SEC. 2. Section 1625.5 is added to the Insurance Code to read:

1625.5. (a) A personal lines licensee is a person authorized to transact automobile insurance, as defined in Section 660, residential property insurance, as defined in Section 10087, including earthquake and flood insurance, personal watercraft insurance, and umbrella or excess liability insurance providing coverage when written over one or more underlying automobile or residential property insurance policies, and a personal lines broker-agent license is a license to so act.

(b) A license under this section shall be applied for and renewed, following successful completion of a qualifying examination on this code, ethics, and products sold under the license, in the same manner as is provided in this chapter for a license to act as a fire and casualty broker-agent, except as provided in subdivision (c) or where provided otherwise.

(c) Notwithstanding any other provision of law, for a personal lines license:

(1) "License term" for a personal lines license means all of that two-year period beginning on the first day of January and ending the last day of December in the second subsequent year.

(2) "License year" for a personal lines license means either the first or second calendar year of a license term.

SEC. 3. Section 1631 of the Insurance Code is amended to read:

1631. Unless exempt by the provisions of this article, a person shall not solicit, negotiate, or effect contracts of insurance, or act in any of the capacities defined in Article 1 (commencing with Section 1621) unless the person holds a valid license from the commissioner authorizing the person to act in that capacity. The issuance of a certificate of authority to an insurer does not exempt an insurer from complying with this article.

SEC. 3.5. Section 1631.5 is added to the Insurance Code, to read:



1631.5. Nothing in this article shall be deemed to affect the current operations of the Healthy Families Program (Part 6.2 (commencing with Section 12693) of Division 2) or the Access for Infants and Mothers Program (Part 6.3 (commencing with Section 12695) of Division 2).

SEC. 4. Section 1635 of the Insurance Code is amended to read:

1635. No license is required under the provisions of this chapter for a person to act in the following capacities or to engage in the following activities, providing no commission is paid or allowed, directly or indirectly, by the insurer, creditor, retailer, or other person for acting in those capacities or engaging in those activities:

(a) The business of examining, certifying or abstracting titles to real property.

(b) The solicitation for membership in a fraternal benefit society and other activities to the extent and as described in Sections 11013 and 11102 of this code.

(c) As a salaried representative of a reciprocal or interinsurance exchange or of its attorney in fact.

(d) Employment which does not include the solicitation, negotiation, or effecting of contracts of insurance and the signing of policies or other evidences of insurance.

(e) As an officer of an insurer or a salaried traveling employee of the type commonly known as a special agent or as an agency supervisor, while performing duties and exercising functions that are commonly performed by a special agent or agency supervisor, if the person engaging in the activity does not do either of the following:

(1) Effect insurance.

(2) Solicit or negotiate insurance except as a part of and in connection with the business of a fire and casualty broker-agent or life agent licensed under this chapter.

(f) As an officer or salaried representative of a life insurer if his or her activities are limited to direct technical advice and assistance to a properly licensed person and his or her activities do not include effecting, soliciting, or negotiating insurance except as a part of and in connection with the business of a fire and casualty broker-agent or life agent licensed under this chapter.

(g) Employment by an insurer at its home or branch office which does not include the solicitation, negotiation, or effecting of contracts of insurance, and which may as part thereof include the signing of policies or other evidences of insurance.

(h) The completion or delivery of a declaration or certificate of coverage under a running inland marine insurance contract evidencing coverage thereunder and including only those negotiations as are necessary to the completion or delivery if the person performing those acts or his or her employer has an insurable interest in the risk covered by the certificate or declaration.



(i) As an employee of a licensed fire and casualty broker-agent, whose employment is one or more of the following:

(1) That of a regularly salaried administrative or clerical employee whose activities do not include the solicitation, negotiation, or effecting of contracts of insurance from the insuring public.

(2) That of a salesperson who devotes substantially all of his or her activities to selling merchandise and whose solicitation of insurance is limited only to the quoting of a premium for insurance to be included in the purchase price covering the interest retained in the merchandise by the seller.

(j) The solicitation, negotiation or effectuation of home protection contracts by a person licensed pursuant to Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code in connection with his or her licensed function authorized by Section 10131 or 10131.6 of the Business and Professions Code. Neither the receipt of a payment permitted by Section 12760 nor the receipt of a benefit permitted by Section 12765 shall disqualify the recipient from the licensing exemption provided by this chapter.

(k) Employees of an insurer whose duties are the inspection, processing, adjusting, investigation, or settling of claims, conducting safety inspections, or accepting or rejecting business from licensed insurance agents or brokers.

(l) Officers, directors, or employees of an insurer or producer whose executive, administrative, managerial, or clerical activities are only indirectly related to solicitation, negotiation, or effecting the sale of insurance, provided those persons do not have direct contact with consumers in a sales or service capacity except as otherwise provided by this section.

(m) Employees whose activities are limited to making clerical changes in existing policies or providing indirect marketing and servicing support for the purpose of determining general interest in insurance products.

SEC. 4.5. Section 1639 of the Insurance Code is amended to read:

1639. The following types of licenses under this chapter may be issued to nonresidents:

(a) A fire and casualty broker-agent if the nonresident is duly licensed to transact more than one class of insurance, other than life insurance, disability insurance or life and disability insurance, under the laws of the state or province of Canada wherein he or she resides, provided the state or province does not prohibit a resident of this state from acting as an insurance agent or broker.

(b) A personal lines broker-agent if the nonresident is duly licensed to transact those lines of insurance described in Section 1625.5, under the laws of the state or province of Canada wherein he or she resides, provided the state or province does not prohibit a resident of this state from acting as an insurance agent or broker.



(c) A life agent if the nonresident is licensed in the state of his or her residence to transact life insurance and disability insurance.

The class or classes of insurance which a person is licensed to transact in the state or province of his or her residence shall be determined according to the definitions of classes of insurance in Sections 101 to 120, inclusive, and in Section 1625.5 of this code. A certificate under official seal and original signature from the insurance regulatory authority of the nonresident's home state or province may be accepted as evidence of the applicant's license status and the capacity or capacities in which he or she is licensed.

(d) Nothing in this section shall require a nonresident fire and casualty, personal lines, or life licensee, who has completed a continuing education course in his or her resident jurisdiction, to comply with California's continuing education requirements. However, if the resident jurisdiction has no continuing education requirements, the licensee shall comply with California's continuing education requirements to be eligible for a nonresident license.

SEC. 4.7. Section 1642 of the Insurance Code is amended to read:

1642. An insurer or reciprocal or interinsurance exchange is not eligible for any license under this chapter; but a corporation rendering sales services in connection with a separate account may be licensed irrespective of the extent of ownership of the corporation by an insurer. Nothing herein shall be interpreted to prohibit an insurer or reciprocal or interinsurance exchange from licensing its employees who solicit, negotiate, or effect contracts of insurance pursuant to this article.

SEC. 4.8. Section 1649.5 of the Insurance Code is amended to read:

1649.5. Notwithstanding Section 1642, an insurer may own or control, whether directly or indirectly, a separate entity licensed under this chapter as a fire and casualty broker-agent or life agent as defined in Section 1621, 1622, or 1623, respectively. Insurance transacted by a fire and casualty broker-agent with and on behalf of the owning or controlling insurer shall be in its capacity as an insurance agent.

SEC. 5. Section 1676 of the Insurance Code is amended to read:

1676. (a) Except as set forth in Sections 1675 and 1679, the commissioner shall not issue a permanent license pursuant to this chapter to an applicant therefor unless the applicant has within the 12-month period next preceding the date of issue of the license taken and passed the qualifying examination for that license. This section shall not apply to a person licensed as a fire and casualty broker-agent who applies for a license as a personal lines broker-agent.

(b) An applicant for a personal lines license pursuant to Section 1625.5 who has been continually employed by an admitted insurer or licensed fire or casualty broker-agent in a full-time position for at least three years prior to January 1, 2001, shall be exempted, at the



discretion of the commissioner, from having to take and pass an examination to obtain a personal lines license. An exempted applicant shall be required to comply with all other provisions of this article pertaining to the issuance and maintenance of a personal lines license.

(c) An application for a personal lines license shall be submitted to the commissioner as provided for in Article 4 (commencing with Section 1652).

(d) The commissioner may deny any application for a personal lines license as provided in Article 6 (commencing with Section 1666).

(e) In addition to the application, any applicant seeking exemption from the examination provisions of this chapter shall also submit, on a form prescribed by the commissioner, or if a form is not prescribed, in letter or resumé form, information that will permit the commissioner to determine whether the previous experience of the applicant warrants an exemption from having to take an examination to obtain a license.

(f) The commissioner shall require an applicant to take an examination to obtain a license if the commissioner determines that the applicant has failed to demonstrate that previous experience warrants an exemption from examination. In the absence of making that determination, the request for exemption from examination shall be granted.

(g) This section shall not be applicable to any applicant for a nonresident license pursuant to subdivision (b) of Section 1639.

(h) This section shall not be applicable to any applicant who has been refused a license or has had a license suspended or revoked by the commissioner.

(i) An applicant for a personal lines license pursuant to Section 1625.5 who seeks an exemption from an examination to obtain a license shall submit a request to that effect to the commissioner. An applicant who does not submit an application on or before December 31, 2001, shall be required to take an examination to obtain a license.

SEC. 5.1. Section 1703 of the Insurance Code is amended to read:

1703. Every applicant for an original license to act as a fire and casualty broker-agent, personal lines 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.

SEC. 5.2. Section 1749 of the Insurance Code is amended to read:





1749. The department shall require all new applicants for license as a fire and casualty broker-agent, personal lines broker-agent, or as a life agent to meet prelicensing education standards as follows:

(a) Require a minimum of 40 hours of prelicensing classroom study as a prerequisite to qualification for a fire and casualty broker-agent license. The curriculum for satisfying this requirement shall be approved by the curriculum board and submitted to the commissioner for final approval. Any additions to the minimum requirements provided by this section shall be approved by the curriculum board pursuant to Section 1749.1 and certified by the department.

(b) Require a minimum of 20 hours of prelicensing classroom study as a prerequisite for qualification for a personal lines broker-agent license. The curriculum for satisfying this requirement shall be approved by the curriculum board and submitted to the commissioner for final approval. Any additions to the minimum requirements provided by this section shall be approved by the curriculum board pursuant to Section 1749.1 and certified by the department.

(c) Require a minimum of 40 hours of prelicensing classroom study as a prerequisite for qualification for a life agent license. The curriculum for satisfying this requirement shall be approved by the curriculum board and submitted to the commissioner for final approval. Any additions to the minimum requirements provided by this section shall be approved by the curriculum board pursuant to Section 1749.1 and certified by the department. This curriculum shall also include instruction in workers' compensation and general principles of employers' liability.

(d) In addition to the 40 hours prelicensing education required to qualify for a license as a fire and casualty broker-agent or life agent, or the 20 hours prelicensing education required to qualify for a license as a personal lines broker-agent, the department shall require 12 hours of study on ethics and this code. Where an applicant seeks a license for both the fire and casualty broker-agent license and the life license, the applicant shall only be required to complete one 12-hour course on ethics and this code. The curriculum for satisfying this requirement shall be approved by the curriculum board and submitted to the commissioner for final approval.

(e) An applicant for a life agent license, a fire and casualty broker-agent license, or a personal lines broker-agent license who is currently licensed as such in another state and who has completed 40 hours of prelicensing education as a requirement for licensing in that state shall be required to complete only the course of study on ethics and the Insurance Code, as required by Section 1749. Additionally, any applicant for such a license holding one or more of the designations specified in subdivisions (a) to (e), inclusive, of Section 1749.4 shall be exempted from any requirement for courses in general



insurance that would otherwise be a condition of issuance of the license.

SEC. 5.3. Section 1749.31 is added to the Insurance Code, to read:

1749.31. An individual licensed as a personal lines broker-agent shall complete required continuing education courses, programs of instruction, or seminars approved by the commissioner. The minimum number of hours required is 10 hours during each of the calendar years in a license term prior to the renewal of the license.

SEC. 5.5. Section 1749.6 of the Insurance Code is amended to read:

1749.6. Any person failing to meet the requirements imposed by Section 1749.3 or 1749.31, and who has not been granted an extension of time within which to comply by the commissioner shall have his or her license automatically terminated until the time that the person demonstrates to the satisfaction of the commissioner that he or she has complied with all of the requirements of this article and all other laws applicable thereto. Where a person cannot perform the requirements of this article due to a disability or inactivity due to special circumstances, the commissioner shall provide a procedure for the person to place his or her license on inactive status until the time that the person demonstrates to the satisfaction of the commissioner that he or she has complied with or made up all of the requirements of this article for the period of disability or inactivity.

SEC. 5.6. Section 1750 of the Insurance Code is amended to read:

1750. The commissioner shall require in advance as a fee for filing application for the hereinafter designated licenses, renewals thereof, or changes in outstanding licenses, an amount calculated as set forth herein. The fee is determined by multiplying the number of license years in the period of the license applied for or the remaining period of an existing license counting any initial fractional license year of that period as one year for that purpose, as follows:

- (a) Fire and casualty broker-agent, fifty-six dollars (\$56).
- (b) Personal lines broker-agent, resident, fifty-six dollars (\$56).
- (c) Life agent, resident, fifty-six dollars (\$56).
- (d) Life agent, nonresident, fifty-six dollars (\$56).

SEC. 5.7. Section 1750.5 of the Insurance Code is amended to read:

1750.5. The fee for filing application for a nonresident fire and casualty broker-agent or nonresident personal lines broker-agent license shall be that established in Section 1750 for a resident fire and casualty broker-agent or resident personal lines broker-agent, except that if the applicant's state, commonwealth or Canadian province of residence has fees for any nonresident insurance license greater than for a like resident license the fee for filing an application for a nonresident fire and casualty broker-agent license shall not be less than the amount a California resident would be required to pay to



obtain a like license for a like term in the applicant's state, commonwealth or Canadian province of residence.

Whenever another state, commonwealth, or Canadian province by statute imposes any restrictions or limitations on a California resident, the restrictions or limitations shall apply to a resident of that state, commonwealth, or Canadian province in California. This section shall not be construed to require a countersignature on a policy or contract, or the payment of a countersignature fee.

SEC. 5.8. Section 1751 of the Insurance Code is amended to read:

1751. The commissioner shall require, in advance, a fee for filing the following documents:

(a) Application for registration of change in membership of a copartnership licensed as any of the following:

- (1) Fire and casualty broker-agent, fifty-six dollars (\$56).
- (2) Life agent, resident, forty-eight dollars (\$48).
- (3) Life agent, nonresident, fifty-three dollars (\$53).
- (4) Personal lines broker-agent, fifty-six dollars (\$56).

(b) Notice for adding or removing from any life agent's, fire and casualty broker-agent's, or personal lines broker-agent's license issued to an organization the name of any natural person named thereon, sixteen dollars (\$16).

(c) First amendment to an application, eight dollars (\$8); a second and each subsequent amendment to an application, sixteen dollars (\$16).

(d) Original application to be given the qualifying examination for a license of a fire and casualty or personal lines licensee, twenty-seven dollars (\$27) for each person to be examined.

(e) Original application to be given the qualifying examination for a license of a life licensee, twenty-seven dollars (\$27) for each person to be examined.

(f) Application for reexamination for any of the licenses mentioned in this section, twenty-seven dollars (\$27) for each person to be reexamined.

(g) Application which includes a request for a certificate of convenience pursuant to Article 8 (commencing with Section 1685), twenty dollars (\$20) in addition to, and not in lieu of, fees otherwise required.

(h) Application or request for approval of true or fictitious name pursuant to Section 1724.5 thirty dollars (\$30), except that there shall be no fee when the name is contained in an original application.

(i) "A ratification of appointments of agents" whereby the surviving insurer in a merger or consolidation assumes responsibility for all agents then lawfully appointed for one of the constituent insurers and makes each its agent, one hundred three dollars (\$103).

(j) An application or request for approval of:

(1) A training course pursuant to Section 1691, except when filed by a degree-conferring college or university, a public educational



institution, or by a private nonprofit educational institution, one hundred three dollars (\$103).

(2) An arrangement whereby an insurer may qualify certificate of convenience holders pursuant to Section 1691 by means of an approved course given on the insurer's behalf by a school or organization other than itself, fifty-five dollars (\$55).

(k) A bond, pursuant to Article 5 (commencing with Section 1662) or Section 1760.5 or 1765, except when the bond constitutes part of an original application filing, sixteen dollars (\$16).

(l) An application or request for a copy of, or a duplicate license, issued pursuant to Chapter 5 (commencing with Section 1621), 6 (commencing with Section 1760), 7 (commencing with Section 1800), or 8 (commencing with Section 1831) or Sections 12280 and 12280.2, sixteen dollars (\$16).

(m) An application or request for clearance and cancellation notice of a current licensee of record, sixteen dollars (\$16).

(n) An amended action notice pursuant to subdivision (e) of Section 1704, five dollars (\$5).

SEC. 6. Section 1751.8 is added to the Insurance Code to read:

1751.8. The Department of Insurance shall investigate and implement a system, and report to the Legislature by January 1, 2001, regarding that system, under which license fees can be paid electronically.

SEC. 7. Article 16.7 (commencing with Section 1758.9) is added to Chapter 5 of Part 2 of Division 1 of the Insurance Code, to read:

#### Article 16.7. Credit Insurance Agents

1758.9. No person shall sell or solicit any form of credit insurance in this state, and receive a commission for their efforts, unless that person is licensed as an insurance agent or broker pursuant to Article 3 (commencing with Section 1631) or is licensed as a credit insurance agent or endorsee under this article.

1758.91. The commissioner may issue to an applicant that has complied with the requirements of this article, a credit insurance agent license to offer or sell those types of insurance specified in Section 1758.96 in connection with, and incidental to, a loan or extension of credit, on behalf of any insurer authorized to write those types of insurance in this state.

1758.92. (a) An applicant for a credit insurance agent license under this article shall submit each of the following to the commissioner:

(1) A written application for licensure signed by the applicant or an officer of the applicant, in the form prescribed by the commissioner.

(2) A certificate by the insurer that is to be named in the credit insurance agent license, stating that the insurer has satisfied itself that



the named applicant is trustworthy and competent to act as its insurance agent limited to this purpose and that the insurer will appoint the applicant to act as its agent in reference to selling or soliciting the kind or kinds of insurance that are permitted by this article, if the credit insurance agent license applied for is issued by the commissioner. The certification shall be subscribed by an officer or managing agent of the insurer on a form prescribed by the commissioner.

(3) An application fee, and each license period thereafter, a renewal fee, in an amount or amounts determined by the department as sufficient to defray the department's actual costs of processing the application or renewal and implementing this article.

The limitation on fee increases of 10 percent without prior approval of the Legislature set forth in Section 12978 shall not apply to the application or renewal fee set forth in this subdivision during the years 2002, 2003, and 2004.

(b) Notwithstanding any other provision of law to the contrary, the provisions set forth in Sections 1667, 1668, 1668.5, 1669, 1670, 1738, and 1739 apply to any application for or issuance of a license, or any application for or approval of an endorsee, pursuant to this article.

1758.93. (a) An employee of an organization that has been issued a credit insurance agent license pursuant to this article may be an endorsee on the license if all of the following conditions have been met:

(1) The employee is 18 years of age or older.

(2) The employee submits an application to the department that includes a signed affidavit, in a form prescribed by the commissioner, stating the applicant has read the credit insurance training material submitted to the commissioner and that the applicant has received from the organization training in, and is knowledgeable about, the credit insurance products to be sold, ethics, and market practices.

(3) The employee submits an application fee, and each year thereafter, a renewal fee, in an amount or amounts determined by the department as sufficient to defray the department's actual costs of processing the application or renewal and implementing this article.

(b) Prior to allowing any endorsee to offer or sell credit-related insurance, the licensed organization shall provide training to each endorsee about the credit insurance products to be sold, and shall submit annually to the department the names of endorsees and a statement of compliance with this article. Training materials used by the organization to train endorsees shall be submitted to the department at the time the organization applies for its credit insurance agent license, and each year thereafter when that license is renewed. Any changes to previously submitted training materials shall be submitted to the department with the changes highlighted 30 days prior to their use by the licensee. Training materials and



changes to those materials submitted to the department pursuant to this subdivision shall be deemed approved for use by the company unless it is notified by the department to the contrary. Failure by a credit insurance licensee to submit training materials or changes for departmental review or use of unapproved or disapproved training materials shall constitute grounds for denial of an application for a license, nonrenewal of a license, or suspension of a license, as appropriate.

(c) The credit insurance agent shall periodically retrain its endorsees.

1758.94. (a) The manager at each business location of an organization licensed as a credit insurance agent, shall be listed as an endorsee on the organization's license and shall be responsible for the training and supervision of each additional endorsee at that location. Each licensee shall identify the endorsee who is the manager at each location for the purposes of this article.

(b) An employee of a credit insurance agent who complies with the requirements of Section 1758.93, and is endorsed on the license of the credit insurance agent, may act on behalf of, and under the supervision of, the credit insurance agent in matters relating to transacting insurance under that agent's license. The conduct of an endorsee of a credit insurance agent acting within the scope of employment or agency shall be deemed the conduct of the credit insurance agent for purposes of this article.

1758.95. (a) If a licensee or endorsee violates any provision of this article or any other provision of this code, the commissioner may do either of the following:

(1) After notice and hearing, suspend or revoke the license of the credit insurance agent.

(2) After notice and hearing, impose other penalties that the commissioner deems necessary and convenient to carry out the purposes of this code, including suspending the privilege of transacting credit insurance pursuant to this article at specific business locations where violations have occurred, imposing fines on the credit insurance agent, individual endorsees or endorsee managers, and suspending or revoking the endorsement of a named endorsee or endorsee manager.

(b) If any person sells insurance in connection with or incidental to a loan or other extension of credit or holds himself or herself or an organization out as a credit insurance agent without obtaining the license required by this article, as being an endorsee when that person is not an endorsee, or as being licensed pursuant to Chapter 5 (commencing with Section 1631) without obtaining that license, the commissioner may issue a cease and desist order pursuant to Section 12921.8.

(c) Notwithstanding any other provision of law to the contrary, the provisions of Section 1748.5 are applicable to both the



organization issued a license pursuant to this article and any endorsee to that license.

1758.96. A person licensed pursuant to this article may act as a credit insurance agent for an authorized insurer only with respect to the kinds of insurance specified in this section sold in connection with and incidental to a loan or other extension of credit other than a loan in excess of sixty thousand dollars (\$60,000) relating to or secured by real property where the repayment period does not exceed 10 years. The sale of credit insurance products as specified in this section in excess of sixty thousand dollars (\$60,000) relating to or secured by real property where any compensation, fee, or commission is paid dependent on the placement of credit insurance, requires a license to act as an insurance agent or life agent pursuant to Section 1621 or 1622.

- (a) Credit life insurance.
- (b) Credit disability insurance.
- (c) Credit involuntary unemployment insurance or credit loss-of-income insurance.
- (d) Credit property insurance.

1758.97. A credit insurance agent shall not sell or offer to sell insurance pursuant to this article unless all of the following conditions are satisfied:

(a) The credit insurance agent provides brochures or other written materials to the prospective purchaser that do all of the following:

- (1) Summarize the material terms and conditions of coverage offered, including the identity of the insurer.
- (2) Describe the process for filing a claim, including a toll-free telephone number to report a claim.
- (3) Disclose any additional information on the price, benefits, exclusions, conditions, or other limitations of those policies that the commissioner may by rule prescribe.

(b) The credit insurance agent makes all of the following disclosures, either with or as part of each individual policy or group certificate, or with a notice of proposed insurance, or, if the insurance is sold at the same time and place as the related credit transaction, in a statement acknowledged by the purchaser in writing on a separate form, electronically, digitally, or by tape recording:

- (1) That the purchase of the kinds of insurance prescribed in this article is not required in order to secure the loan or an extension of credit.
- (2) That the insurance coverage offered by the credit insurance agent may provide a duplication of coverage already provided by a purchaser's other personal insurance policies or by another source of coverage.



(3) That the endorsee is not qualified or authorized to evaluate the adequacy of the purchaser's existing coverages, unless the individual is licensed pursuant to Article 3 (commencing with Section 1631).

(4) That the customer may cancel the insurance at any time. If the customer cancels within 30 days from the delivery of the insurance policy, certificate, or notice of proposed insurance, the premium will be refunded in full. If the customer cancels at any time thereafter, any unearned premium will be refunded in accordance with applicable law.

(c) Evidence of coverage is provided to every person who elects to purchase that coverage.

(d) Costs for the insurance are separately itemized in any loan, credit, or retail agreement.

(e) The insurance is provided under an individual policy issued to the purchaser or under a group or master policy issued to the organization licensed as a credit insurance agent by an insurer authorized to transact the applicable kinds or types of insurance in this state. Any of the conditions and disclosures specified in this section shall be deemed satisfied if the consumer is otherwise provided with the information required in this section by any other disclosures required by existing federal or state law or regulations.

No statement, disclosure, or notice made for the purpose of compliance with this section shall be construed to cause the policy form, certificate of insurance, or notice of proposed insurance, by themselves, to be considered nonstandard forms, as described in Article 6.9 (commencing with Section 2249) of Subchapter 2 of Chapter 5 of Title 10 of the California Code of Regulations.

1758.98. Under the authority of the credit insurance agent license, a credit insurance agent shall not do any of the following:

(a) Offer to sell insurance except in conjunction with, and incidental to, a loan or extension of credit.

(b) Advertise, represent, or otherwise portray itself or its employees, agents, or endorsees as licensed insurers, life agents, or fire and casualty broker-agents.

(c) Pay any unlicensed person any compensation, fee, or commission dependent on the placement of insurance under the agent's license. Nothing in this subdivision shall prohibit production payments or incentive payments to an endorsee.

1758.99. An organization licensed as a credit insurance agent shall prominently display its license number and the department's toll free consumer hot line telephone number on brochures and information sheets required by this article and on any evidence of insurance.

1758.991. Any insurer that provides insurance to be sold by an organization licensed as a credit insurance agent shall file a copy of any individual policy issued to a purchaser, or any policy or certificate issued under a group or master policy to an organization licensed as





a credit agent, with the commissioner, who shall make that policy available to the public.

1758.992. As used in this article, the following definitions have the following meanings:

(a) “Enrollment” means the process of soliciting or accepting enrollments or applications from a debtor under a credit insurance policy, which includes informing the debtor of the availability of coverage, calculating the insurance charge, preparing and delivering the certificate of insurance or notice of proposed insurance, answering questions regarding the coverage, or otherwise assisting the debtor in making an informed decision whether or not to elect to purchase credit insurance.

(b) “Creditor” means a lender of money or a vendor or lessor of goods, services, property, rights, or privileges, for which payment is arranged through a credit transaction, or any successor to the right, title, or interest of that lender, vendor, or lessor, and any affiliate, associate, subsidiary, subcontractor, director, officer, or employee of any of them or any other person in any way associated with any of them.

(c) “Credit insurance agent license” means an agent license issued to an individual or organization for the enrollment and sale of credit insurance.

(d) “Credit insurance” includes credit life insurance, credit disability insurance, credit involuntary unemployment insurance, credit loss-of-income insurance, or credit property insurance.

(e) “Credit life insurance” and “credit disability insurance” have the same meanings, and include only those forms of insurance, as defined in Sections 779.2 and 779.3.

(f) “Credit involuntary unemployment insurance” or “credit loss-of-income insurance” means insurance issued to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is involuntarily unemployed, as defined in the policy.

(g) “Credit property insurance” means insurance that provides coverage (1) on personal property pledged or offered as collateral for securing a personal or consumer loan, or (2) on personal property purchased under an installment sales agreement or through a consumer credit transaction, but does not include any insurance that provides theft, collision, liability, property damage, or comprehensive insurance coverage in any automobile or any other self-propelled vehicle that is designed primarily for operation in the air or on the highways, waterways, or sea, and its operating equipment, or that is necessitated by reason of the liability imposed by law for damages arising out of the ownership, operation, maintenance, or use of those vehicles. However, that excluded insurance does include single interest coverage on any of those



vehicles that insures the interest of the creditor in the same manner as collateral secures a loan.

1758.993. Nothing in this article regulating the sale of credit insurance shall be construed to impair or impede the application of any other law regulating the sale of credit insurance, including, but not limited to, the California Finance Lenders Law, Division 9 (commencing with Section 22000) of the Financial Code.

1758.994. The commissioner shall submit a report to the Legislature by June 30, 2004, regarding the effectiveness of this article in protecting consumers involved in credit insurance transactions. This report shall include, but not be limited to, the number and categories of licensees licensed pursuant to this article, the number and nature of enforcement actions related to credit insurance licensing or marketing issues, and any needed legislative reforms recommended by the commissioner.

SEC. 8. The Insurance Commissioner shall adopt rules to implement this act, including rules applicable equally to employees of insurers and producers specifying what constitutes clerical changes for the purpose of Section 1635 of the Insurance Code. The rules shall be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of the Government Code, and for the purpose of that chapter, including Section 11349.6 of the Government Code, the adoption of rules shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare.

SEC. 9. The provisions of this act shall become operative on January 1, 2002, so as to provide for an orderly regulatory process. The Legislature declares that enactment of this act, which sets fees for specific license categories, shall not be construed to affect the validity of any fee increases adopted by the commissioner pursuant to Section 12978.

SEC. 10. The first-year startup costs incurred by state agencies that are associated with the implementation of this act shall be reimbursed from fee revenues authorized by this act that are received in subsequent years.

SEC. 11. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

