

CALIFORNIA CODE OF REGULATIONS
TITLE 10, CHAPTER 5
SUBCHAPTER 1, ARTICLE 5.9
BROKER FIDUCIARY DUTIES

2184.1 Applicability

This article applies to all insurance transactions.

Authority: Insurance Code section 790.10.

Reference: Insurance Code sections 790, 790.01, 790.02 and 790.03(b)

2184.2 Definitions

- (a) "Broker" means a person, including an agent appointed pursuant to Insurance Code section 1704, who represents, purports to represent, or allows a client reasonably to assume he or she represents, a client in an insurance transaction.

- (b) "Client" means an insured or prospective insured with whom a broker transacts or may transact insurance.

- (c) "Income" means receipt of anything of value.

- (d) "Material fact" means a fact that will more likely than not influence either the particular client or a reasonable client in forming his or her estimate of the advantages and disadvantages of a proposed agreement, policy or relationship, or in making his or her inquiries. A broker has the burden of proving that a fact alleged to have been material is not material.

- (e) "Best available insurers" means the most suitable insurers for the client based on coverage, service, financial security and price, that are willing to provide the requested coverage through the broker.

Authority: Insurance Code section 790.10.

Reference: Insurance Code sections 790, 790.01, 790.02 and 790.03(b)

2184.3 Misrepresentation

A broker who fails to disclose to a client all material facts surrounding the broker's receipt or potential receipt of income from a third party, which income derives in whole or in part from a transaction on behalf of the client, violates Insurance Code section 790.03(b).

2184.4 Fiduciary duty

- (a) A broker who places his or her own financial or other interest above that of his or her client violates Insurance Code section 790.02.
- (b) A broker violates Insurance Code section 790.02 if, with either new or renewal business, he or she:
 - (1) Fails to provide the client with the proposal of a best available insurer;
 - (2) Advises a client to select an insurer other than a best available insurer;
 - (3) Advises a client not to select a best available insurer from among multiple insurers suggested to the client.
 - (4) Fails to take reasonable measures to obtain a quote from an insurer that might be a best available insurer.

Authority: Insurance Code section 790.10.

Reference: Insurance Code sections 790, 790.01, 790.02, 790.03(b) and (c)