

Assembly Bill No. 2782

CHAPTER 400

An act to amend Sections 31, 33, 34, 674.9, 1192.9, 1621, 1623, 1625, 1637, 1639, 1729, 1749, 1749.3, 1758.96, 1758.992, 1802.1, 1807.5, 1807.7, 1808, 1810.7, 1811, 1871.7, 1874.86, 12962, 14090, 14090.1, 15054, and 15059.1 of, to add Sections 1742.3, 1807.8, and 1807.9 to, and to repeal Section 1673 of, the Insurance Code, relating to insurance.

[Approved by Governor September 25, 2010. Filed with
Secretary of State September 27, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2782, Committee on Insurance. Insurance omnibus.

(1) Existing law prohibits insurance agents, insurance brokers, and insurance solicitors from transacting in life insurance.

This bill would also prohibit insurance agents, insurance brokers, and insurance solicitors from transacting in disability insurance, health insurance, and 24-hour care coverage.

(2) Existing law requires each insurer writing liability insurance for long-term health care facilities, residential care facilities for the elderly, or physicians who provide or oversee the provision of services to residents in long-term health care facilities or residential care facilities for the elderly to report to the Insurance Commissioner specified information regarding liability policies for those facilities or physicians by a date to be set by the commissioner, but not later than July 1 of each calendar year.

This bill would instead require the report by a date set by the commissioner without restriction, except that the report shall be required not more than once each calendar year.

(3) Existing law authorizes a domestic insurer to make excess funds investments in shares of an investment company, as defined, if certain requirements are satisfied. Among those requirements is the requirement that the investment company be domiciled in the United States with all assets held in the United States by a bank, trust company, or other authorized custodian chartered by the United States, its territories, possessions, or states. Existing law also requires that, in order for a domestic insurer to make excess funds investments in an investment company, the investment company issue its shares to the insurer or to the insurer's custodian, subcustodian, or depository designated pursuant to certain provisions, or have its shares be retained by a bank, trust company, or other entity other than the investment company that is authorized by the United States to act as a transfer and dividend paying agent for the investment company.

This bill would still require that an investment company in which a domestic insurer may make excess funds investments be domiciled in the

United States, but would delete the requirements that all assets be held in the United States by a bank, trust company, or other authorized custodian chartered by the United States, its territories, possessions, or states. The bill would also provide that specified laws that generally relate to an insurer's custodians, subcustodians, or depositories are not applicable to assets or investments held by an investment company in which a domestic insurer may make excess funds investments.

(4) Existing law provides that a fire and casualty licensee is a person authorized to act as an insurance agent, broker, or solicitor, and a fire and casualty broker-agent license is a license to make those insurance transactions. A fire and casualty licensee is authorized to transact 24-hour care coverage and any coverage that a personal lines licensee is authorized to transact.

This bill would delete the authorization of a fire and casualty licensee to transact 24-hour care coverage and any coverage that a personal lines licensee is authorized to transact. This bill would divide the fire and casualty broker-agent license into 2 insurance license types: property broker-agent licenses, for insurance coverage on the direct or consequential loss or damage to property of every kind, and casualty broker-agent licenses, for insurance coverage against legal liability, including for death, injury, disability, or damage to real or personal property.

(5) Existing law requires a minimum of 40 hours of preclicensing study as a prerequisite to qualification for a fire and casualty broker-agent license.

This bill would require a minimum of 20 hours of preclicensing study as a prerequisite to qualification for a property broker-agent license, and a minimum of 20 hours of preclicensing study as a prerequisite to qualification for a casualty broker-agent license.

(6) Existing law requires a fire and casualty broker-agent to complete an annual minimum of 25 hours of continuing education for the first 4 years of his or her licensing, and after 4 years the licensee is required to complete a minimum of 24 hours of continuing education prior to license renewal, every 2 years.

This bill would instead require the property or casualty broker-agent to complete 24 hours of continuing education prior to license renewal.

(7) Existing law authorizes a person licensed as a fire and casualty broker-agent or a life licensee to transact disability insurance on behalf of an insurer which is authorized to transact disability insurance by filing a notice of appointment for that purpose.

This bill would delete that provision.

(8) Existing law authorizes the Insurance Commissioner, where a licensee has been found by the commissioner to have violated any provision of the code that would justify the suspension or revocation of a license held, or where a person is applying for a license and there exists grounds for the denial of the application by the commissioner, after a hearing, to revoke the license held or deny the application for an unrestricted license, and in lieu of an unrestricted license issue a restricted license.

This bill would authorize the commissioner, without a hearing, to issue an order denying an application by a business entity for an unrestricted license and granting instead a restricted license. The bill would also authorize this action by the commissioner where a controlling person of the business entity, as defined, holds a restricted license. The bill would provide for a means by which the business entity would be authorized to request reconsideration of the commissioner's decision. The bill would require that, if the commissioner determines that the business entity should have been granted an unrestricted license, the unrestricted license be granted retroactively.

(9) Existing law authorizes licensed insurance agents, insurance brokers, and credit insurance agents to act as credit insurance agents for an authorized insurer with respect to certain kinds of insurance sold in connection with and incidental to a loan or other extension of credit, as specified.

This bill would include in the definition of credit insurance guaranteed automobile protection insurance, as defined, and any other form of insurance declared by the commissioner to be credit insurance.

(10) Existing law requires an insurer not to execute an undertaking of bail except by and through a person holding a bail license issued by the commissioner. Bail licenses are renewable annually by way of a notice of intention to keep licenses in force or applications for renewal of licenses filed on or before June 30 of each year.

This bill would, commencing January 1, 2011, delete the notice of intention to keep licenses in force as a renewal method, and make bail licenses renewable every 2 years, as prescribed.

(11) Existing law makes it unlawful to knowingly employ runners, cappers, steerers, or other persons to procure clients or patients to perform or obtain services or workers' compensation benefits or to procure clients or patients to perform or obtain services or benefits under a contract of insurance or that will be the basis for a claim against an insured individual or his or her insurer. The commissioner is authorized to bring a civil action against any person violating this provision and, on and after January 1, 2006, and prior to January 1, 2011, if the commissioner has brought an action or has proceeded with an action brought by another person under this provision, the commissioner is entitled to attorney's fees and costs in addition to any judgment.

This bill would delete the January 1, 2011, repeal date for the attorney's fees and costs provision.

(12) Existing law requires each insurer that issues automobile liability or collision policies to report annually to the Department of Insurance regarding the number of vehicles inspected for which it has approved a claim for the cost of auto body repairs, the percentage that number represents of the total number of vehicles for which it paid an auto body repair claim in the prior calendar year, and the results of the inspection, including any fraud uncovered and whether any legal action was pursued.

This bill would change the reporting requirement so that the report need only be submitted at the request of the commissioner and not more than annually.

(13) Existing law requires the commissioner to report annually to the Governor, the Legislature, and the committees of the Senate and Assembly having jurisdiction over insurance an analysis of specified information.

This bill would eliminate the requirement for the report to include an analysis of the results of a program to reduce the number of uninsured motorists and the relationship to affordable private passenger vehicle liability insurance rates.

(14) Existing law requires that insurance adjusters and public insurance adjusters be licensed by the commissioner. Adjuster licenses expire on May 31 of each even-numbered year. Licensees are required, if not exempt, to complete a minimum of 24 hours of continuing education, including ethics.

This bill would change the expiration of those licenses to the day 2 years after the last calendar day of the month in which the initial license was issued. The bill would require licenses issued prior to January 1, 2011, to expire on May 31 of each even-numbered year. The bill also would require that 3 hours of the continuing education requirement consist of ethics.

(15) This bill would make minor, conforming, and related changes and delete obsolete provisions.

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

SECTION 1. Section 31 of the Insurance Code is amended to read:

31. "Insurance agent" means a person authorized, by and on behalf of an insurer, to transact all classes of insurance other than life, disability, or health insurance, on behalf of an admitted insurance company.

SEC. 2. Section 33 of the Insurance Code is amended to read:

33. "Insurance broker" means a person who, for compensation and on behalf of another person, transacts insurance other than life, disability, or health with, but not on behalf of, an insurer.

SEC. 3. Section 34 of the Insurance Code is amended to read:

34. "Insurance solicitor" means a natural person employed to aid a property and casualty broker-agent acting as an insurance agent or insurance broker in transacting insurance other than life, disability, or health.

SEC. 4. Section 674.9 of the Insurance Code is amended to read:

674.9. (a) Notwithstanding subdivision (b) of Section 674.6, an insurer issuing policies of liability insurance to long-term health care facilities, residential care facilities for the elderly, or physicians who provide or oversee the provision of services to residents in long-term health care facilities or residential care facilities for the elderly shall notify the department at least 90 days prior to the date it intends to cease, withdraw, or substantially withdraw from offering liability policies to those facilities or physicians.

(b) Each insurer writing liability insurance for long-term health care facilities, residential care facilities for the elderly, or physicians who provide

or oversee the provision of services to residents in long-term health care facilities or residential care facilities for the elderly shall, by a date to be set by the commissioner, but not more than once each calendar year, report to the commissioner information specified by him or her regarding liability policies for those facilities or physicians. The information shall include, but not be limited to, the following:

(1) Whether the insurer is writing coverage for long-term health care facilities, residential care facilities for the elderly, or physicians who provide or oversee the provision of services to residents in long-term health care facilities or residential care facilities for the elderly, including new and renewal policies, and the types of policies it is writing.

(2) The number and types of long-term health care facilities or residential care facilities for the elderly and beds covered.

(3) The total amount of premiums from insureds, both written and earned, during the immediately preceding five calendar years.

(4) The total number of claims received, including the amount per claim.

(5) The number of claims incurred, together with the monetary amount reserved for loss and defense and cost containment expense for the immediately preceding accident year or report year.

(6) The number of claims closed with payment during the immediately preceding five calendar years, the total monetary amount paid for loss thereon, reported by the year the claim was incurred, and the total defense and cost containment expense paid thereon, reported by the year the claim was incurred.

(7) The monetary amount paid on claims, including the amount paid per claim, during the immediately preceding five calendar years to be reported separately by the year the claim was incurred, with defense and cost containment expense paid.

(8) The number of claims closed without payment during the immediately preceding five calendar years, reported by the year the claim was incurred, and the defense and cost containment expense paid thereon.

(9) The monetary amount reserved in the annual statement for loss and defense and cost containment expense for the immediately preceding calendar year for outstanding claims incurred but not reported to the insurer.

(10) The number and types of lawsuits filed against the insureds in the immediately preceding calendar year.

(11) Annualized information on investment income or loss, that shall be consistent with the reported information provided by insurers to the National Association of Insurance Commissioners.

(c) For the purposes of information collection conducted pursuant to this section, first priority shall be given by the department and commissioner to collecting and compiling information from insurers concerning long-term health care facilities and physicians providing services in those facilities, and, to the extent that departmental resources allow, secondary priority shall then be given to the collecting and compiling of information concerning residential care facilities for the elderly and the physicians who provide services in those facilities.

(d) Information that is collected for long-term health care facilities and the physicians for those facilities shall be collected, maintained, analyzed, and reported separately from information that is collected, maintained, analyzed, and reported concerning residential care facilities for the elderly, and the physicians for those facilities.

(e) As used in this section, “long-term health care facility” has the same meaning as that term is defined in Section 1418 of the Health and Safety Code.

(f) As used in this section, “residential care facilities for the elderly” has the same meaning as that term is defined in Section 1569.2 of the Health and Safety Code.

(g) Information collected by the department pursuant to this section shall be deemed official information and subject to the disclosure protections of Section 1040 of the Evidence Code. Nothing in this section shall require individualized information that would identify the amount paid by a specific insurer or facility to be released. However, nothing in this subdivision shall prevent the department from preparing reports and policy recommendations based on the data collected pursuant to this section.

SEC. 5. Section 1192.9 of the Insurance Code is amended to read:

1192.9. Notwithstanding Section 1100, a domestic insurer may make excess funds investments in shares of an investment company, as defined in the Federal Investment Company Act of 1940, if the requirements of subdivisions (b) and (c) are satisfied. No investment made pursuant to this section that ceases to satisfy the requirements of subdivision (b) or (c) shall be retained as an excess fund investment. No domestic insurer shall invest under any provision of this code in the shares of any investment company that has more than 33.33 percent of its investments in foreign investments that do not comply with paragraph (4) of subdivision (b).

(a) The definitions in this subdivision apply to the following terms when used in this section:

(1) A mutual fund is an open-end management company as defined in Section 5(a)(1) of the Federal Investment Company Act of 1940 (15 U.S.C. Sec. 80(a)-5(a)(1)).

(2) An exchange traded fund is either an open-end management company as defined in Section 5(a)(1) of the Federal Investment Company Act of 1940, or a unit investment trust as defined in Section 4(2) of the Federal Investment Company Act of 1940 (15 U.S.C. Sec. 80a-4(2)), that is registered under the Federal Investment Company Act of 1940 and that satisfies the terms of exemptive orders issued by the United States Securities and Exchange Commission that qualify it to be an exchange-traded fund.

(3) A fund is any investment company authorized in this section as an excess fund investment.

(b) The investment company shall:

(1) Be registered with and reporting to the United States Securities and Exchange Commission.

(2) Be domiciled in the United States.

(3) Have assets in excess of one hundred million dollars (\$100,000,000), or be affiliated with other investment companies that have, in the aggregate, assets in excess of one billion dollars (\$1,000,000,000).

(4) Have at least 66.67 percent of its investments be investments that are authorized under Article 3 (commencing with Section 1170) and Article 4 (commencing with Section 1190), except that any amount of a fund's assets may consist of foreign investments, provided that if more than 50 percent of its total investments consist of foreign investments, then the insurer's investment in that fund shall comply with the provisions of subparagraph (C) of paragraph (1) of subdivision (c), notwithstanding any other provision of this section or this code.

(5) Have at least 36 months of active investment history.

(6) Issue its shares as fully paid and nonassessable, with no preemptive, conversion, or exchange rights.

(7) Issue its shares to the insurer or to the insurer's custodian, subcustodian, or depository designated pursuant to Section 1104.9, or have its shares be retained by a bank, trust company, or other entity other than the investment company that is authorized by the United States to act as a transfer and dividend paying agent for the investment company, provided that, notwithstanding any other provision of this code, Section 1104.9 shall not apply to the assets or investments held by the investment company.

(8) Provide equal rights and privileges to each share within the same class or series, and entitle each share within its class or series to vote and to participate equally in dividends and distributions declared by the investment company and in the net distributable assets of the investment company on liquidation.

(9) If it is a mutual fund, entitle shareholders to require the investment company to redeem all shares.

(10) If it is an exchange-traded fund, all of its shares are both of the following:

(A) Registered under the Federal Securities Act of 1933.

(B) Either listed and traded on a national securities exchange registered under the Securities Exchange Act of 1934 or have prices ascertained by quotations furnished through a nationwide automated quotations system approved by the Financial Industry Regulatory Authority.

(11) Have no investment policies that authorize any of the following:

(A) Borrowings to exceed $33\frac{1}{3}$ percent of its total assets.

(B) The aggregate notional value of its derivative instruments outstanding to exceed 10 percent of its total assets.

(C) Investment in commodities or direct ownership of real estate.

(12) Have an expense ratio that does not exceed the following amounts of its average daily net asset values:

(A) For a money market fund, 100 basis points.

(B) For a bond fund, 200 basis points.

(C) For a stock or mixed stock/bond fund, 300 basis points.

(c) An insurer shall do the following:

(1) At no time make or retain an excess fund investment under the authority of this section that exceeds the following limits:

(A) An amount of its admitted assets, as reported in its most recent annual statement, that is more than any of the following:

(i) Three percent in a single investment company or 7 percent in an affiliated group of investment companies.

(ii) Twenty-five percent in all investments authorized by this section.

(B) One hundred percent of its surplus as regards policyholders, as reported in its most recent annual statement, in all investments authorized by this section.

(C) For an investment in a fund that has more than 50 percent of its assets in foreign investments, those foreign investments shall be foreign investments as defined by Section 1240 and shall be considered foreign investments, investments denominated in foreign currencies, or both, as applicable, for purposes of the limitations set forth in subdivisions (a) and (b) of Section 1241. No insurer shall invest in any such fund pursuant to any other provision of this code.

(D) An investment in any single investment company that exceeds 10 percent of the total net asset value of that investment company.

(2) Make a specific determination, pursuant to Sections 1200 and 1201, that an investment company has stated investment policies that are suitable for the insurer's investment objectives.

(d) In addition to any other remedies available under this code for any violation of this section, the commissioner may, after giving an insurer notice and an opportunity to be heard, deny credit in any financial statement filed with the commissioner for all or any part of an investment in an investment company, even if it otherwise complies with this section, if he or she finds the investment to be unsound or hazardous.

The grounds for finding an investment unsound or hazardous may include, but are not limited to, the following determinations:

(1) The investment company's investment adviser or subadviser lacks sufficient investment experience to render reliable investment advice; or lacks good professional character or good standing with any securities licensing authorities having jurisdiction over them.

(2) The portfolio turnover rate of the investment company is excessive in relation to its investment goals.

(3) The investment company's annual investment management fee, or other fees or charges incurred by the investment company or the insurer, are not reasonable when compared to charges or fees associated with similar investment companies.

(4) An investment company fails to mirror substantially any security index upon which its stated investment policy is based.

SEC. 6. Section 1621 of the Insurance Code is amended to read:

1621. An insurance agent is a person who transacts insurance, other than life, disability, or health insurance, on behalf of an admitted insurance company. The term "insurance agent" as used in this chapter does not include a life agent as defined in this article.

SEC. 7. Section 1623 of the Insurance Code is amended to read:

1623. (a) An insurance broker is a person who, for compensation and on behalf of another person, transacts insurance other than life, disability, or health insurance with, but not on behalf of, an admitted insurer. It shall be presumed that the person is acting as an insurance broker if the person is licensed to act as an insurance broker, maintains the bond required by this chapter, and discloses, in a written agreement signed by the consumer, all of the following:

- (1) That the person is transacting insurance on behalf of the consumer.
- (2) A description of the basic services the person will perform as a broker.
- (3) The amount of all broker fees being charged by the person.
- (4) If applicable, the fact that the person may be entitled to receive compensation from the insurer, directly or indirectly, for the consumer's purchase of insurance as a consequence of the transaction.

(b) If a transaction involves both a retail broker and a wholesale intermediary broker, the wholesale intermediary broker shall be deemed to have satisfied its disclosure obligations under this section if it provides written disclosure to the retail broker of the criteria set forth in paragraphs (2), (3), and (4) of subdivision (a).

(c) The presumption of broker status is rebutted as to any transaction in the admitted market in which any of the following is present:

(1) The licensee is appointed, pursuant to Section 1704, as an agent of the insurer for the particular class or type of insurance being transacted.

(2) The licensee has a written agreement with an insurer containing express terms that authorize the licensee to obligate the insurer without first obtaining notification from the insurer that the insurer has accepted, conditionally or unconditionally, the submitted risk.

(3) The licensee is authorized, pursuant to a written agreement with an insurer, to appoint other licensees as agents of the insurer, pursuant to Section 1704.

(4) The licensee is authorized, pursuant to a written agreement with an insurer, to pay claims on behalf of the insurer.

(d) In all other cases, the presumption of broker status is rebutted based on the totality of the circumstances indicating that the broker-agent is acting on behalf of the insurer.

(e) For purposes of this section, "totality of the circumstances" means evidence indicating whether a broker-agent was acting on behalf of the insurer or was acting on behalf of a third person. In determining the totality of circumstances, all relevant facts and circumstances shall be reviewed and the review is not limited to any particular fact or factors and this section does not require that any particular circumstance receive greater or lesser weight.

SEC. 8. Section 1625 of the Insurance Code is amended to read:

1625. (a) A fire and casualty licensee is a person authorized to act as an insurance agent, broker, or solicitor, and a fire and casualty broker-agent license is a license so to act.

(b) Licenses to act as a fire and casualty broker-agent under this chapter shall be of the following types:

(1) Property, which shall entitle the licensee to transact insurance coverage on the direct or consequential loss or damage to property of every kind.

(2) Casualty, which shall entitle the licensee to transact insurance coverage against legal liability, including that for death, injury, disability, or damage to real or personal property.

SEC. 9. Section 1637 of the Insurance Code is amended to read:

1637. An organization may hold any license or licenses necessary to act in the following capacities under this chapter and no others:

- (a) A license to act as a life-only agent.
- (b) A license to act as an accident and health agent.
- (c) A license to act as a property broker-agent.
- (d) A license to act as a casualty broker-agent.
- (e) A license to act as a cargo shipper's agent.
- (f) A license to act as a personal lines licensee.
- (g) A license to act as a credit insurance agent.
- (h) A license to act as a rental car agent.
- (i) A nonresident license to act as a limited lines licensee pursuant to subdivision (i) of Section 1639.
- (j) A license to act as a self-service storage agent.
- (k) A license to act as a limited lines automobile insurance agent.

SEC. 10. 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 property broker-agent or a casualty broker-agent if the nonresident is duly licensed to transact those lines of insurance described in Section 1625, under the laws of the state, territory of the United States, or province of Canada where the resident license is maintained.

(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, territory of the United States, or province of Canada where the resident license is maintained.

(c) A life-only agent or an accident and health agent if the nonresident possesses a resident license in another state, territory of the United States, or province of Canada to transact life insurance or disability insurance.

(d) A nonresident life-only agent may be granted authority to transact variable contracts if he or she has been granted that authority by the state where the resident license is maintained.

(e) A surplus line broker and a special lines surplus broker if the nonresident holds that type of license in the state or territory of the United States where the resident license is maintained.

(f) A credit insurance agent if the nonresident holds that type of license in the state, territory of the United States, or province of Canada where the resident license is maintained.

(g) A rental car agent if the nonresident holds that type of license in the state, territory of the United States, or province of Canada where the resident license is maintained.

(h) A cargo shipper's agent if the nonresident holds that type of license in the state, territory of the United States, or province of Canada where the resident license is maintained.

(i) A limited lines license if the nonresident holds that type of license in the state, territory of the United States, or province of Canada where the resident license is maintained. As used in this section, "limited lines license" means any authority granted by the resident state that restricts the authority of the license to less than the total authority granted by any of the types of licenses identified in this section.

(j) A self-service storage agent if the nonresident holds that type of license in the state, territory of the United States, or province of Canada where the resident license is maintained.

SEC. 11. Section 1673 of the Insurance Code is repealed.

SEC. 12. Section 1729 of the Insurance Code is amended to read:

1729. Every licensee and every applicant for a license shall immediately notify the commissioner using an electronic service approved by the commissioner of any change in his or her e-mail, residence, principal business, or mailing address as given to the commissioner pursuant to Sections 1658 and 1728.

SEC. 13. Section 1742.3 is added to the Insurance Code, to read:

1742.3. (a) The commissioner may, without hearing, issue an order denying an application by a business entity for an unrestricted license and granting instead a restricted license. The commissioner may do so when a controlling person of the business entity, as defined in subdivision (b) of Section 1668.5, holds a restricted license. The commissioner may impose any reasonable restriction on the business entity's authority to transact insurance that is similar or related to the restriction imposed upon the controlling person. A description of the nature and scope of the restriction imposed upon the business entity shall be included in the commissioner's order. The business entity shall have no property right in the restricted license and the commissioner may, with or without hearing or cause, suspend or revoke the restricted license. The restricted license shall be issued in the normal course of business following the issuance of the order and shall remain in effect pending the outcome of any request for reconsideration and any decision following a hearing pursuant to that request.

(b) The business entity may request reconsideration of the commissioner's decision to deny an unrestricted license within 30 days from the date that the decision is mailed to the entity. If the business entity requests a hearing on the request for reconsideration, the hearing shall be conducted pursuant to Article 10 (commencing with Section 11445.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, and the business entity shall bear the burden of proving by clear and convincing evidence that an unrestricted license should have been granted instead of a restricted license. If the commissioner determines, after a hearing, that the business entity

should have been granted an unrestricted license, the entity shall be granted that unrestricted license retroactive to the date of the granting of the restricted license.

SEC. 14. Section 1749 of the Insurance Code is amended to read:

1749. The department shall require all new applicants for license as a property broker-agent, casualty broker-agent, limited lines automobile insurance agent, personal lines broker-agent, life-only agent, or accident and health agent to meet prelicensing education standards as follows:

(a) Require a minimum of 20 hours of prelicensing study as a prerequisite to qualification for a property 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 study as a prerequisite to qualification for a 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.

(c) Require a minimum of 20 hours of prelicensing 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.

(d) Require a minimum of 20 hours of prelicensing study as a prerequisite for qualification for a life-only 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.

(e) Require a minimum of 20 hours of prelicensing study as a prerequisite for qualification for a limited lines automobile insurance 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 under this section shall be approved by the curriculum board pursuant to Section 1749.1 and certified by the department.

(f) Require a minimum of 20 hours of prelicensing study as a prerequisite for qualification for an accident and health insurance 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 under 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.

(g) In addition to the 20 hours of prelicensing education required to qualify for a license as a property broker-agent, casualty broker-agent, personal lines broker-agent, a life-only agent, or an accident and health agent, or the 20 hours of prelicensing education required to qualify for a license as a limited lines automobile insurance agent, the department shall require 12 hours of study on ethics and this code. Where an applicant seeks a license for more than one of the following license types: a fire and casualty broker-agent license, a personal lines broker-agent license, a life-only license, or an accident and health 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.

(h) An applicant for a life-only agent license, an accident and health license, a personal lines broker-agent license, or a limited lines automobile insurance agent license, who is currently licensed as a nonresident in this state shall be required to complete only the course of study on ethics and this code, as required by this section. Additionally, any applicant for that license holding one or more of the designations specified in subdivisions (a) to (p), 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.

(i) An applicant for a property broker-agent or casualty broker-agent license who is currently licensed as a nonresident in this state shall be required to complete only the course of study on ethics and this code, as required by subdivision (g). Additionally, any applicant for a license holding one or more of the designations specified in subdivisions (a) to (p), 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 a license.

(j) An applicant for a property broker-agent or casualty broker-agent license or both who is licensed as a personal lines agent shall complete a minimum of 20 hours of prelicensing study as a prerequisite for each of these licenses. The curriculum for satisfying this requirement shall be approved by the curriculum board and submitted to the commissioner for final approval. The applicant shall not be required to repeat any prelicensing requirements completed as a prerequisite to being licensed as a personal lines agent.

(k) Review and approval of prelicensing courses not conducted in a classroom, as referenced in subdivisions (a) to (j), inclusive, shall include an evaluation of the safeguards in place to ensure that the student completing the course is the person enrolled in the course, methods used to monitor the student's attendance are adequate, methods for the student to interact with the entity providing the training exist, and methods used to record the times spent completing the course are adequate.

(l) Prelicensing certificates of completion expire three years from the completion date of the course, whether or not a license is issued.

SEC. 15. Section 1749.3 of the Insurance Code is amended to read:

1749.3. An individual licensed as a life-only agent or an accident and health agent and also licensed as a property or casualty broker-agent, or an individual only licensed as a property or casualty broker-agent, shall complete those courses, programs of instruction, or seminars approved by the commissioner for the type of license held. Completion of specified product training required in subdivision (d) of Section 1749.33, subdivision (b) of Section 1749.8, and paragraph (4) of subdivision (a) of Section 10234.93 may result in the completion of more than the minimum of required continuing education hours. The minimum number of hours required is as follows:

(a) Any licensee, as specified in this section, shall satisfactorily complete 24 hours of instruction prior to renewal of the license. These hours of instruction may be completed at any time prior to renewal of the license.

(b) An individual licensed as a property broker-agent or casualty broker-agent and as a life-only agent or an accident and health agent shall satisfy the requirements of this section by demonstrating completion of the courses, programs of instruction, or seminars approved by the commissioner for any of the license types listed in this section.

(c) A licensee shall not be required to comply with the requirements of this article 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. This exemption shall not apply to those individuals licensed for the first time on or after January 1, 2010.

SEC. 16. Section 1758.96 of the Insurance Code is amended to read:

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.

(e) Guaranteed automobile protection (GAP) insurance.

(f) Any other form of insurance declared by the commissioner to be subject to this section pursuant to subdivision (d) of Section 1758.992.

SEC. 17. Section 1758.992 of the Insurance Code is amended to read:

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, credit property insurance, or guaranteed automobile protection (GAP) insurance.

Credit insurance also includes any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation that the commissioner determines should be designated a form of credit insurance.

The commissioner may adopt, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, reasonable rules and regulations necessary to carry out this subdivision.

(e) (1) “Credit life insurance” means insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction, exclusive of any insurance procured at no expense to the debtor. Insurance shall be deemed procured at no expense to the debtor unless the cost of the credit transaction to the debtor varies depending on whether or not the insurance is procured.

(2) “Credit disability insurance” means insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled, as defined in the policy, exclusive of any insurance procured at no expense to the debtor. Insurance shall be deemed to have been procured at no expense to the debtor unless the cost of the credit transaction to the debtor varies depending on whether or not the insurance is procured.

(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.

(h) (1) “Guaranteed automobile protection” (GAP) insurance means insurance in which a person agrees to indemnify a vehicle purchaser or lessee for any of the difference between the actual cash value of the insured’s vehicle at the time of an unrecovered theft or total loss and the amount owed on the vehicle pursuant to the terms of a loan, lease agreement, or installment sales contract used to purchase or lease the vehicle. GAP insurance may also include a promise to pay up to five thousand dollars (\$5,000) to an insured, in addition to the sum needed to indemnify the insured for the difference between the actual cash value and the outstanding debt, to purchase or lease another vehicle.

(2) GAP insurance does not include, and no insurance license of any type under this code is required to offer, any of the following:

(A) A promise contained in a conditional sales contract for the sale of a vehicle by a licensed motor vehicle dealer or a promise contained in a lease agreement for the lease of a vehicle by a licensed motor vehicle dealer or leasing company to waive all or a portion of the difference between the actual cash value of the insured’s vehicle at the time of an unrecovered theft or total loss and the amount owed on the vehicle pursuant to the terms of a loan, lease agreement, or installment sales contract used to purchase or lease the vehicle.

(B) A promise by a lender as part of a debt obligation to purchase or lease a vehicle in which the lender agrees to waive all or a portion of the difference between the actual cash value of the insured’s vehicle at the time of an unrecovered theft or total loss and the amount owed on the vehicle pursuant to the terms of a loan, lease agreement, or installment sales contract used to purchase or lease the vehicle.

(C) Coverage under subparagraphs (A) and (B) may not include a promise to pay money to a vehicle purchaser or lessee in addition to waiving the difference between the actual cash value and the amount owed. For purposes of this paragraph, a promise to pay money does not include, and a dealer shall be allowed to offer, a discount or credit provided to a consumer as an incentive for purchasing or leasing a new vehicle if the consumer is required to use the discount or credit on a purchase or lease from the dealer that sold or leased the original vehicle to the consumer.

SEC. 18. Section 1802.1 of the Insurance Code is amended to read:

1802.1. Every applicant for a license to act as a bail agent shall file with the commissioner a notice of appointment executed by a surety insurer or its authorized representative authorizing that applicant to execute

undertakings of bail and to solicit and negotiate those 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 the license is issued and thereafter, as long as the license remains in force. Each appointment shall, by its terms, continue in force until any of the following occur:

- (a) Termination of the bail agent's license.
- (b) The end of the license term, if the fee provided in subdivision (e) of Section 1811 for filing a renewal application is not paid.
- (c) The filing of a notice of termination by the insurer, its representative, or by the bail agent.

SEC. 19. Section 1807.5 of the Insurance Code is amended to read:

1807.5. Except as provided in Sections 1669 and 1738, 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 a license for a period not exceeding 15 days pending the hearing. 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 pursuant to that chapter.

SEC. 20. Section 1807.7 of the Insurance Code is amended to read:

1807.7. Commencing on January 1, 2011, all licenses issued pursuant to this article shall be for a license term of two years.

SEC. 21. Section 1807.8 is added to the Insurance Code, to read:

1807.8. "License term" as used in this chapter means all of that two-year period beginning as described in subdivision (a) or (b) of Section 1807.9, as applicable, and ending on the day two years after the last calendar day of the month in which the initial license was issued. Licenses issued prior to January 1, 2011, shall expire on June 30 of each odd-numbered year.

SEC. 22. Section 1807.9 is added to the Insurance Code, to read:

1807.9. "License year" as used in this chapter shall be determined for each individual and entity as follows:

- (a) Upon initial licensing, the license year starts on the date the license is issued.
- (b) Subsequently, each license year starts the first day of the month following the month in which the initial license was issued.
- (c) A license year ends the following calendar year on the last calendar day of the month in which the initial license was issued.
- (d) A license year for licenses issued prior to January 1, 2011, starts on July 1 and ends on June 30.

SEC. 23. Section 1808 of the Insurance Code is amended to read:

1808. (a) Applications for renewal of licenses may be filed on or before the expiration date upon payment of the fees for filing specified in Section 1811.

(b) Upon failure to file the application as provided in subdivision (a), the license shall expire on the first day of the next month, but the holder

may file an application for a new license. Until that same month and day of the next succeeding year the fee shall be twice that specified in Section 1811 for the filing.

(c) No 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 the document and the fee have been filed and remitted pursuant to Sections 11002 and 11003 of the Government Code.

SEC. 24. Section 1810.7 of the Insurance Code is amended to read:

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 related laws and regulations, rights of the accused, ethics, and apprehension of bail fugitives. Additionally, a licensee shall complete in each two-year license term not less than 12 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 preclicensing education requirements of this section through 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.

SEC. 25. Section 1811 of the Insurance Code is amended to read:

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) per year.

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

(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 a renewal application, a fee of thirty-five dollars (\$35) per year. 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 subdivision shall be the fee provided herein multiplied by the number of insurers whose valid appointments are on file at the date the document is filed unless the bail agent in that document advises the commissioner of his or her intent to terminate the appointment of one or more of those insurers, in which event the fee shall be based upon the number for insurers remaining.

(f) For a bail solicitor's renewal application, a fee of thirty-five dollars (\$35) per year.

(g) For a bail permittee's renewal application, a fee of one hundred forty-eight dollars (\$148) per year.

(h) At the time of filing an application for a license, if a qualifying examination is required for issue or in connection with the 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 the name is contained in an original application.

(j) For filing a bond required by this chapter, except when the bond constitutes part of an original application, ten dollars (\$10).

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

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

SEC. 26. Section 1871.7 of the Insurance Code is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (i) Limiting the number of witnesses the person may call.
- (ii) Limiting the length of the testimony of those witnesses.
- (iii) Limiting the person's cross-examination of witnesses.
- (iv) Otherwise limiting the participation by the person in the litigation.

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

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

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

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

(g) (1) (A) (i) If the district attorney proceeds with an action brought by a person under subdivision (e), that person shall, subject to subparagraph

(B), receive at least 30 percent but not more than 40 percent of the proceeds of the action or settlement of the claim, depending upon the extent to which the person substantially contributed to the prosecution of the action.

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

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

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

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

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

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

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

(B) Where the action is one that the court finds to be based primarily on disclosures of specific information, other than information provided by the person bringing the action, relating to allegations or transactions in a criminal, civil, or administrative hearing, in a legislative or administrative report, hearing, audit, or investigation, or from the news media, the court may award those sums that it considers appropriate, but in no case more

than 10 percent of the proceeds, taking into account the significance of the information and the role of the person bringing the action in advancing the case to litigation.

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

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

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

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

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

district attorney or commissioner to continue the action on behalf of the state.

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

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

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

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

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

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

(k) Any employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by his or her employer because of lawful acts done by the employee on behalf of the employee or others in furtherance of an action under this section, including investigation for, initiation of, testimony for, or assistance in, an action filed or to be filed under this section, shall be entitled to all relief necessary to make the employee whole. That relief shall include reinstatement with the same seniority status the employee would have had but for the discrimination, two times the amount of backpay, interest on the backpay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney's fees. An employee may bring an action in the appropriate superior court for the relief provided in this subdivision. The remedies under this section are in addition to any other remedies provided by existing law.

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

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

SEC. 27. Section 1874.86 of the Insurance Code is amended to read:

1874.86. Each insurer subject to this article shall report, at the request of the commissioner, but not more than annually, to the department on the following:

(a) The number of vehicles inspected pursuant to Section 1874.85 and the percentage that this number represents of the total number of vehicles for which it paid a claim for the cost of auto body repairs in the prior calendar year.

(b) The results of the inspections, including the nature of any fraud uncovered, and whether or not legal action was pursued.

The department shall make the information provided pursuant to this section available to the California Highway Patrol and the Bureau of Automotive Repair.

SEC. 28. Section 12962 of the Insurance Code is amended to read:

12962. The commissioner shall report to the Governor, the Legislature, and to the committees of the Senate and Assembly having jurisdiction over insurance all of the following in the annual report submitted pursuant to Section 12922:

(a) An analysis of the information required by Sections 674.5, 1857.7, 1857.9, 1864, and 12963, including, but not limited to, all of the following:

(1) An aggregate and an average for all insurers for each item of information required by these sections.

(2) The number of insurers reporting policies written for each class during the calendar year.

(3) For each class, the number of insurers reporting a combined loss ratio of 100 percent or more, and the number reporting a combined loss ratio of under 100 percent.

(4) An analysis of adjustments made to loss reserves for prior years.

(5) The change in any item required to be included by paragraphs (1) to (4), inclusive, from the immediately prior year.

(b) An analysis of the activities of the Department of Insurance in implementing the provisions of Proposition 103 on the November 8, 1988, general election ballot, as set forth in Article 10 (commencing with Section 1861.01) of Chapter 9 of Part 2 of Division 1.

(c) Recommendations and proposals, including suggested legislation, to protect consumers from arbitrary insurance rates and practices, to encourage a competitive insurance marketplace, to provide for an accountable Insurance Commissioner, and to ensure that insurance is fair, available, and affordable for all Californians.

(d) The requirements of this section shall be satisfied if the analysis required by this section is included in the annual report to the Governor required by Section 12922, and a copy of that report is provided to the Legislature.

SEC. 29. Section 14090 of the Insurance Code is amended to read:

14090. Every license, branch office certificate, and pocket card issued pursuant to this chapter shall expire on the day two years after the last calendar day of the month in which the initial license was issued. Licenses issued prior to January 1, 2011, shall expire on May 31 of each even-numbered year. To renew an unexpired license or certificate, the licensee shall, on or before the date on which it would otherwise expire, apply for renewal on a form prescribed by the commissioner, and pay the renewal fee prescribed by this chapter. On renewal, the evidence of renewal of the license or certificate as the commissioner may prescribe, and renewal pocket cards for the persons mentioned in Section 14034, shall be issued to the licensee.

SEC. 30. Section 14090.1 of the Insurance Code is amended to read:

14090.1. (a) An individual who holds an insurance adjuster license and who is not exempt under subdivision (b) of this section shall satisfactorily complete a minimum of 24 hours, of which three hours are to be in ethics, of continuing education courses pertinent to the duties and responsibilities of an insurance adjuster license reported to the insurance commissioner on a biennial basis in conjunction with his or her license renewal cycle.

(b) This section does not apply to either of the following:

(1) A licensee not licensed for one full year prior to the end of the applicable continuing education biennium.

(2) A licensee holding a nonresident insurance adjuster license who has met the continuing education requirements of his or her designated resident state.

SEC. 31. Section 15054 of the Insurance Code is amended to read:

15054. Every license, branch office certificate, and pocket card issued pursuant to this chapter shall expire on the day two years after the last calendar day of the month in which the initial license was issued. Licenses issued prior to January 1, 2011, shall expire on May 31 of each even-numbered year. To renew an unexpired license or certificate, the licensee shall, on or before the date on which it would otherwise expire, apply for renewal on a form prescribed by the commissioner, and pay the renewal fee prescribed by this chapter. On renewal, the evidence of renewal of the license or certificate as the commissioner may prescribe, and renewal pocket cards for the persons mentioned in Section 15022 shall be issued to the licensee.

SEC. 32. Section 15059.1 of the Insurance Code is amended to read:

15059.1. (a) An individual who holds a public insurance adjuster license and who is not exempt under subdivision (b) shall satisfactorily complete a minimum of 24 hours, of which three hours are to be in ethics, of continuing education courses pertinent to the duties and responsibilities of a public insurance adjuster license, to be reported to the insurance

commissioner on a biennial basis in conjunction with his or her license renewal cycle.

(b) This section shall not apply to:

(1) A licensee not licensed for one full year prior to the end of the applicable continuing education biennium.

(2) A licensee holding a nonresident public insurance adjuster license who has met the continuing education requirements of his or her designated state or residence.