

**STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
300 Capitol Mall, 17th Floor
Sacramento, California 95814**

NOTICE OF PROPOSED ACTION

DATE: January 26, 2009

REGULATION FILE: REG-2007-00007

SUBJECT OF PROPOSED RULEMAKING

The Insurance Commissioner proposes to adopt the regulations described below after considering comments from the public. The Commissioner proposes to add to Title 10, Chapter 5, Subchapter 1, Article 6.5 of the California Code of Regulations the following new Sections: 2187.5, 2187.6, 2187.7, 2188.2.5, 2188.5.5, 2188.50 and amend the following sections: 2186, 2186.1, 2187, 2187.1, 2187.2, 2187.3, 2187.4, 2188, 2188.1, 2188.2, 2188.3, 2188.23, 2188.24, 2188.4, 2188.5, 2188.8, and 2188.83. The regulations set forth the following: (1) the curriculum required to obtain an insurance agent license as a Life Agent, Life-Only Agent, Accident and Health Insurance Agent, and Limited Lines Automobile Insurance Agent; (2) the standards for approval of online prelicensing courses and the requirements for successful completion of the online prelicensing course by the student; (3) the qualifications for instructors including the specific requirements for online prelicensing course instructors; and, (4) the minimum number of review questions to be answered by the student per course, per section.

PUBLIC HEARING

The Commissioner will hold a public hearing to provide all interested persons an opportunity to present statements or arguments, either orally or in writing, with respect to this regulation, as follows:

Date and time: March 23, 2009

**Location: Department of Insurance
300 Capitol Mall, 13th Floor Conference Room
Sacramento, CA 95814**

The hearing will continue on the date noted above until all testimony has been submitted or 4:00 p.m., whichever is earlier.

PRESENTATION OF WRITTEN COMMENTS; CONTACT PERSONS

All persons are invited to submit written comments on the proposed regulations during the public comment period. The public comment period will end at 5:00 p.m. on March 23, 2009. Please direct all written comments to the following contact person:

Elena Fishman, Senior Staff Counsel
California Department of Insurance
300 Capitol Mall, 17th Floor
Sacramento, CA 95814
Telephone: (916) 492-3507

Questions regarding procedure, comments, or the substance of the proposed action should be addressed to the above contact person. In the event the contact person is unavailable, inquiries regarding the proposed action may be directed to the following backup contact person:

Charlene Ferguson, Chief
Producer Licensing Bureau
300 Capitol Mall, 17th Floor
Sacramento, CA 95814
Telephone: (916) 492-3010

DEADLINE FOR WRITTEN COMMENTS

All written materials must be received by the Insurance Commissioner, addressed to the contact persons at his address listed above, no later than 5:00 p.m. on March 23, 2009. Any written materials received after that time may not be considered.

COMMENTS TRANSMITTED BY E-MAIL OR FACSIMILE

The Commissioner will accept written comments transmitted by e-mail provided they are sent to the following e-mail address: fishmane@insurance.ca.gov. The Commissioner will also accept written comments transmitted by facsimile provided they are directed to the attention of Elena Fishman and sent to the following facsimile number: (916) 324-1883. **Comments sent to other e-mail addresses or other facsimile numbers will not be accepted. Comments sent by e-mail or facsimile are subject to the deadline set forth above for written comments.**

AUTHORITY AND REFERENCE

The proposed regulations will implement, interpret and make specific the provisions of Insurance Code sections 1749, 1749.1, 1749.3, 1749.31, 1749.32, 1749.33, 1749.4, 1749.5, 1749.8, and 10234.93. Insurance Code section 1749.7 provides authority for this rulemaking, as do the following decisions of the California Supreme Court: *CalFarm Ins. Co. v. Deukmejian*, 48 Cal.3d 805 (1989), and *20th Century Ins. Co. v. Garamendi*, 8 Cal. 4th 216 (1994).

INFORMATIVE DIGEST

SUMMARY OF EXISTING LAW AND POLICY STATEMENT OVERVIEW

Existing law provides for the licensing of various classes of insurance agents and broker-agents including fire and casualty broker-agents, personal lines broker-agents, and life agents. Section 1749 sets forth the hourly requirements for prelicensing study and the required curriculum for each type of insurance agent and broker-agent license. Previous law required a certain number of hours of prelicensing education for each type of agent license to be conducted in a classroom. Previous law did not provide for online prelicensing education.

AB 2387 (Chapter 590, Statutes of 2006) deleted the word “classroom” from the prelicensing education course requirements permitting prelicensing education students to access prelicensing courses outside a classroom environment. Subsection (g) established standards to ensure the integrity of online prelicensing education. The standards as well as online course curriculum and

other requirements shall be approved by the curriculum board and submitted to the Commissioner for final approval. Subsection (h) provided for the expiration of the certificate of completion for a non-classroom prelicensing course three years from the completion date of the course, whether or not a license is issued.

AB 720 (Chapter 270, Statutes of 2007) and AB 797 (Chapter 271, Statutes of 2007) also amended section 1749 to add three new license types: (1) Life-Only agent; (2) Accident and Health Insurance agent; and, (3) Limited Lines Automobile Insurance agent. Course curriculum and hourly educational requirements for each of the new license types are specified. The revised “life agent” license requirements, which include both life agent and accident and health insurance agent, were included in this legislation as well. In addition, continuing education hours were clarified for licensees selling annuities and long-term care insurance. Lastly, AB 797 directed the Curriculum Board to approve standards for courses in business management practices for agents and brokers and specified the subject matter to be taught.

The policy underlying these statutory and regulatory changes is to provide alternate methods for individuals desiring to obtain a license either as an insurance agent or life agent to meet the prelicensing education requirements. These changes will allow individuals to access the education requirements through on-line education methodologies. It is anticipated that this will provide increased access for individuals in communities which do not currently offer classroom education and increased opportunities for individuals whose work or family commitments do not permit time off to attend classroom education. Further, the proposed regulations provide specific detailed requirements for education providers who choose to offer non-contact education courses for insurance and life agents and potential insurance and life agents.

EFFECT OF PROPOSED ACTION

The proposed regulations will define and make specific online prelicensing course activities, course curriculum, how credit hours are determined, online prelicensing course approval requirements for education providers, course review question criteria, and how successful completion of online prelicensing courses is determined. The proposed regulations will also include new required forms. In addition, the course curriculum and requirements for the new licensing categories of ‘life-only agents’, ‘accident and health insurance agents’, and ‘limited lines automobile insurance agents’ will be defined and made specific in the proposed regulations.

Further, the proposed regulations address instructor qualifications for online prelicensing and continuing education courses. Details regarding instructor qualifications are provided in the proposed regulations as well as the requirements for maintenance by providers of instructor qualification documentation.

MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The proposed regulations do not impose any mandate on local agencies or school districts. There are no costs to local agencies or school districts for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement.

COST OR SAVINGS TO STATE AGENCIES, LOCAL AGENCIES OR SCHOOL DISTRICTS OR IN FEDERAL FUNDING

The Commissioner has determined that the proposed regulations will result in no cost or savings to any state agency, no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, no other nondiscretionary cost or savings imposed on local agencies, and no cost or savings in federal funding to the State.

ECONOMIC IMPACT ON BUSINESS AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE

The Commissioner has made an initial determination that the adoption of the proposed regulations may have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The types of businesses that may be affected are education providers. The Commissioner has not considered proposed alternatives that would lessen any adverse economic impact on business and invites you to submit proposals. Submissions may include the following considerations:

- (i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.
- (ii) Consolidation or simplification of compliance and reporting requirements for businesses.
- (iii) The use of performance standards rather than prescriptive standards.
- (iv) Exemption or partial exemption from the regulatory requirements for businesses.

POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The Commissioner is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

EFFECT ON JOBS AND BUSINESSES IN CALIFORNIA

The Commissioner is required to assess any impact the regulations may have on the creation or elimination of jobs in the State of California, the creation of new businesses, the elimination of new businesses, and the expansion of businesses currently operating in the state.

The proposed regulations may result in the creation of jobs in the State of California for course authors. New education provider businesses may be created and/or expanded due to the potential increase in online students. The extent to which jobs and businesses will be lost will be relatively minor in terms of the State's aggregate economic activity. The proposed regulations will not eliminate jobs or new businesses in California.

FINDING OF NECESSITY

The Commissioner finds that it is necessary for the welfare of the people of the state that the regulations apply to businesses.

IMPACT ON HOUSING COSTS

The proposed regulations will have no significant effect on housing costs.

ALTERNATIVES

The Commissioner must determine that no reasonable alternative considered by the Commissioner or that has otherwise been identified and brought to the attention of the Commissioner would be more effective in carrying out the purpose for which this action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

IMPACT ON SMALL BUSINESS

The Commissioner has determined that the proposed amendments may affect small businesses to the extent that it affects education providers.

TEXT OF REGULATIONS AND STATEMENTS OF REASONS

The Department has prepared an initial statement of reasons that sets forth the reasons for the proposed action. Upon request, the initial statement of reasons will be made available for inspection and copying. Requests for the initial statement of reasons or questions regarding this proceeding should be directed to the contact person listed above. Upon request, the final statement of reasons will be made available for inspection and copying once it has been prepared. Requests for the final statement of reasons should be directed to the contact person listed above.

The file for this proceeding, which includes a copy of the express terms of the proposed regulations, the statement of reasons, the information upon which the proposed action is based, and any supplemental information, including any reports, documentation and other materials related to the proposed action that is contained in the rulemaking file, is available by appointment for inspection and copying at 300 Capitol Mall, 17th Floor, Sacramento, California 95814, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday.

AUTOMATIC MAILING

A copy of this notice, including the informative digest, which contains the general substance of the proposed regulations, will automatically be sent to all persons on the Insurance Commissioner's mailing list.

WEBSITE POSTINGS

Documents concerning this proceeding are available on the Department's website. To access them, go to <http://www.insurance.ca.gov>. Find at the right-hand side of the page the heading 'QUICK LINKS.' The third item in this column under this heading is 'For Insurers'; on the drop-down menu for this item, select 'Legal Information.' When the 'INSURERS: LEGAL INFORMATION' screen appears, click the third item in the list of bulleted items near the top of

the page: 'Proposed Regulations.' The 'INSURERS: PROPOSED REGULATIONS' screen will be displayed. Select the only available link: 'Search for Proposed Regulations.' Then, when the 'Search or Browse for Documents for Proposed Regulations' screen appears, you may choose to find the documents either by conducting a search or by browsing for them by name.

To search, enter "REG-2007-00007" (the Department's regulation file number for these regulations) in the search field. Alternatively, search using as your search term the Office of Administrative Law's notice file number assigned to the regulations ("Z"), or search by keyword ("online preclicensing course", "preclicensing study", "education provider", "life-only agent", "limited lines automobile insurance agent", "accident and health insurance agent", "continuing education") the various filing documents.

To browse, click on the 'Browse All Regulations' button near the bottom of the screen. A list of the names of regulations for which documents are posted will appear. Find in the list the 'Online Preclicensing Education' link, and click it. Links to the documents associated with these regulations will then be displayed.

MODIFIED LANGUAGE

If the regulations adopted by the Department differ from those which have originally been made available but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Interested persons should request a copy of these regulations prior to adoption from the contact person listed above.