

ARTICLE 1.3 STANDARDS FOR APPROVAL OF INSURER NAMES

Section 2278.50 Applicability.

(a) These regulations apply to written applications for the use of a name by any of the following:

- (1) a domestic insurer ("domestic" is defined in Insurance Code Section 26);
- (2) a foreign insurer ("foreign" is defined in Insurance Code Section 27);
- (3) an alien insurer (as defined in Insurance Code Section 1580);
- (4) a reciprocal or interinsurance exchange (as defined in Insurance Code Section 1303);
- (5) a motor club (as defined in Insurance Code Section 12142);
- (6) an underwritten title company (as defined in Insurance Code Section 12340.5);
- (7) a home protection company (as defined in Insurance Code Section 12740);
- (8) a fraternal benefit society (as defined in Insurance Code Section 10990);
- (9) two or more insurers proposing to issue an underwriter's policy as to the name or title of such policy (as specified in Insurance Code Section 882);
- (10) a multiple employer welfare arrangement (as defined in Insurance Code Section 742.21);
- (11) an attorney-in-fact of a reciprocal or interinsurance exchange, or an agent or other representative duly authorized and acting under a power of attorney for subscribers of a reciprocal or interinsurance exchange.
- (12) any other entity for which approval of a name is required by the Insurance Code.

(b) These regulations do not apply to non-admitted persons.

(c) This Article does not apply to applications for the use of a name that have been approved by the Commissioner prior to the effective date of these regulations.

Note: Authority cited: Sections 700, 720, and 790.10, Insurance Code, *CalFarm Ins. Co. v. Deukmejian*, (1989) 48 Cal.3d 805, and *20th Century Ins. Co. v. Garamendi*, (1994) 8 Cal. 4th 216. Reference: Section 742.42, Sections 881 through 886, Section 10970, Section 12162, Section 12389, and Section 12743.

Section 2278.51 Definitions.

(a) The term "Licensee" refers to any type of entity specified in Section 2278.50 of this Article, regardless of the entity's form of organization, authorized by the Commissioner to transact insurance or other business in California.

(b) The term "Applicant" means any person seeking approval for the use of a name in accordance with these regulations, whether such person is proposed to be formed, in formation, or in existence.

(c) The term "Affiliate" means a person who directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person. Insurers that are within an insurance holding company system are Affiliates.

Note: Authority cited: Sections 700, 720, and 790.10, Insurance Code, *CalFarm Ins. Co. v. Deukmejian*, (1989) 48 Cal.3d 805, and *20th Century Ins. Co. v. Garamendi*, (1994) 8 Cal. 4th 216. Reference: Section 742.42, Sections 881 through 886, Section 10970, Section 12162, Section 12389, and Section 12743.

Section 2278.52 Written Application.

(a) An Applicant seeking approval of a name shall submit a written application containing the information set forth below, together with any other information that is reasonably required by the Commissioner under the circumstances. An Applicant may use the Commissioner's Form N-1 for this purpose.

- (1) The name for which approval is sought and up to two alternative names, if desired, in order of preference;
- (2) The Applicant's state of domicile;
- (3) The Applicant's Federal Employer Identification Number;
- (4) The Applicant's National Association of Insurance Commissioners number and, if applicable, group number and group name.
- (5) An organizational chart identifying all Affiliates, including parent companies and subsidiaries. If the Applicant has not yet been formed, the organizational chart must specify the proposed position of the Applicant on the organizational chart upon completion of the Applicant's formation;
- (6) In the case of an Applicant that is not affiliated with any other company or person, the names of the owners or proposed owners of the Applicant;
- (7) If the Applicant is an underwritten title company, the counties in which business is or will be transacted;
- (8) The classes of insurance as specified in Insurance Code §100 and the classes of insurance or contracts as defined in Insurance Code Sections 101 through 124.5 and Section 12100 that the Applicant transacts or proposes to transact in California, including statutorily authorized specialty lines, such as: variable life insurance, variable annuities, modified guaranteed annuities, and universal life insurance..
- (9) A list identifying every application or filing pending with the Commissioner by or pertaining to the Applicant, or by or pertaining to any Affiliate, regarding transaction of its business, or transaction of any Affiliate's business, in California. The foregoing includes, but is not limited to, an application for a certificate of authority, an amended certificate of authority, a securities permit, an application or filing required by Insurance Code Section 1011(c), and an application pursuant to Insurance Code Sections 1215 *et seq.* Applications pertaining to dividends, property and casualty rates, and form filings are not required to be listed.

(10) In the case of a foreign or alien insurer or other entity that will be required to use an operating name in California, a certified copy of a resolution by its board of directors (or if its form of business organization does not have a board of directors, its governing body) authorizing the use of the fictitious business name or operating name in California.

(b) An Applicant seeking approval of a name change shall submit the following information in addition to the information specified in Subdivision (a):

(1) the reason for the proposed name change (including but not limited to marketing reasons, acquisition, merger or reorganization of the Applicant);

(2) if the requirements of subdivision (q) of Section 2303.15 apply to the Applicant, then the Applicant shall submit a written commitment as set forth in subdivision (r) of Section 2303.15 that it shall comply with subdivision (q) Section 2303.15. The written commitment does not have to be in the form of a board resolution.

(c) An Applicant whose primary business is, or will be, reinsurance and whose proposed name includes the words "reinsurer" or "reinsurance" shall submit a written commitment as set forth in subdivision (q) of Section 2303.15 (the written commitment does not have to be in the form of a board resolution), that (1) transacting reinsurance will be its primary business in California, and (2) at such time as it intends that its primary business in California will be transacting direct insurance (not reinsurance), it will submit an application to the Commissioner seeking approval of a name change that deletes the words "reinsurer" or "reinsurance," as the case may be, and which otherwise complies with these regulations.

Note: Authority cited: Sections 700, 720, and 790.10, Insurance Code, *CalFarm Ins. Co. v. Deukmejian*, (1989) 48 Cal.3d 805, and *20th Century Ins. Co. v. Garamendi*, (1994) 8 Cal. 4th 216. Reference: Section 742.42, Sections 881 through 886, Section 10970, Section 12162, Section 12389, and Section 12743.

Section 2278.53 Prohibited Words or Phrases.

(a) An application for approval of a name may not contain the following words or phrases, either singular or plural, or a derivation of one or more of such words or phrases:

- (1) Federal;
- (2) United States, U.S., or U.S.A.;
- (3) reserve;
- (4) Deposit Insurance;
- (5) Federal Deposit;
- (6) Olympic;
- (7) Olympia;
- (8) bank;
- (9) savings association;
- (10) savings;
- (11) savings bank, unless (A) the remaining words in the name clearly demonstrate that the applicant will conduct insurance business and not a savings bank business and (B) a "no objection letter" issued by the California Department of Financial Institutions is provided to the Commissioner;

- (12) savings and loan association;
- (13) building and loan association;
- (14) building association;
- (15) trust, unless the Applicant is a Multiple Employer Welfare Association;
- (16) trustee;
- (17) agent;
- (18) agency;
- (19) society, unless the Applicant is organized, or proposes to be organized as a fraternal benefit society, pursuant to Insurance Code Sections 10970 *et seq.*;

(b) An application by an Applicant whose primary business is not reinsurance may not contain the words "reinsurer" or "reinsurance."

Note: Authority cited: Sections 700, 720, and 790.10, Insurance Code, *CalFarm Ins. Co. v. Deukmejian*, (1989) 48 Cal.3d 805, and *20th Century Ins. Co. v. Garamendi*, (1994) 8 Cal. 4th 216. Reference: Section 742.42, Sections 881 through 886, Section 10970, Section 12162, Section 12389, and Section 12743.

Section 2278.54 Required Words or Phrases.

(a) A proposed name for an Applicant that is, or will be, an insurer must include one of the following words: "Assurance," "Casualty," "Indemnity," or "Insurance."

(b) A proposed name for an Applicant that is, or will be, admitted to write life insurance must include the word "Life."

(c) A proposed name for an Applicant that is, or will be, organized as a stock company must indicate that the Applicant is a stock company. The name may use the word "Company" for this purpose.

(d) A proposed name for an Applicant that is, or will be, organized as a mutual insurance company must include the word "Mutual."

(e) A proposed name for an Applicant that is organized as a reciprocal insurer or an interinsurance exchange, must include the words "Interinsurance Exchange," "Exchange," or "Reciprocal."

(f) A proposed name for an Applicant that is, or will be, an underwritten title company or title insurer must include the word "Title."

(g) A proposed name for an Applicant that writes, or will write, mortgage insurance or mortgage guaranty insurance must include the words "mortgage" or "mortgage guaranty," as applicable.

(h) A proposed name of an Applicant that is, or will be, a motor club must include the word "Club" and the words "Motor," "Auto," or "Automobile."

(i) A proposed name for an Applicant that is the United States branch of an alien insurer must include the words "United States Branch" or "U.S. Branch."

(j) A proposed name for an Applicant that is a Multiple Employer Welfare Association must include the word "Trust."

Note: Authority cited: Sections 700, 720, and 790.10, Insurance Code, *CalFarm Ins. Co. v. Deukmejian*, (1989) 48 Cal.3d 805, and *20th Century Ins. Co. v. Garamendi*, (1994) 8 Cal. 4th 216. Reference: Section 742.42, Sections 881 through 886, Section 10970, Section 12162, Section 12389, and Section 12743.

Section 2278.55 Names Which Are An Interference With or Are Too Similar to Names or Which are Likely to Mislead the Public.

For the purpose of this Section, the meaning of the word "name" includes a name that has been reserved pursuant to Insurance Code Section 881 and includes a proposed name for which an application is pending before the Commissioner.

(a) A name is too similar to or is an interference with the name of a business, other entity or Licensee if:

(1) the first two words, initials or numbers of the proposed name are identical to the first two words, initials or numbers of the name of a business, entity or Licensee, other than an Affiliate.

(2) it contains words or phrases used in the name of another Licensee, other than an Affiliate, that are not general words or phrases or are not commonly used in the names of Licensees.

(3) it contains a coined word (i.e., a word that is made up) that is part of the name of a business, entity, or Licensee other than an Affiliate.

(4) it is so similar in words, usage, word order, spelling, pronunciation, or appearance to the name, logo, symbol, trademark, trade name, or service mark of a well-known business or entity (other than an Affiliate) or Licensee (other than an Affiliate) as to borrow on the name of, or imply affiliation with, or create a likelihood of confusion with the name of such business, entity or Licensee. The foregoing applies regardless whether the business or entity is licensed or regulated by the Insurance Commissioner or is otherwise identified with the insurance industry.

(5) it is identical in words, regardless of order, to the name of a Licensee (including an Affiliate).

(b) a name is likely to mislead the public if:

(1) it would tend to cause the public to believe that the Applicant offers, or will offer, classes or types of insurance that it does not or will not offer.

(2) it includes the name of a state or other jurisdiction other than the state or jurisdiction in which the Applicant is domiciled.

(3) it is the same as, closely resembles, borrows on the name of, or implies affiliation with or sponsorship by a federal, state, or local governmental authority or program.

(4) it is the same as, closely resembles, borrows on the name of, implies affiliation, or is too similar to the name of a bank, savings association, trust company, industrial loan company, or other financial institution that it not an Affiliate of the Applicant.

(5) it contains words or numbers indicating or implying that it was organized or commenced transacting business prior to another Licensee or Applicant, whether or not the Licensee or other Applicant is an Affiliate.

(6) it would lead the public to believe that the Applicant is an insurance agent, life agent, insurance broker, insurance solicitor, or other holder of a license specified in Insurance Code Part 2, Chapters 5 and 7.

(c) In addition to the circumstances set forth in subdivisions (a) and (b), the Commissioner may exercise discretion to determine that a name is too similar to or is an interference with the name of a business, other entity or Licensee, or is likely to mislead the public under other circumstances on a case by case basis.

Note: Authority cited: Sections 700, 720, and 790.10, Insurance Code, *CalFarm Ins. Co. v. Deukmejian*, (1989) 48 Cal.3d 805, and *20th Century Ins. Co. v. Garamendi*, (1994) 8 Cal. 4th 216. Reference: Section 742.42, Sections 881 through 886, Section 10970, Section 12162, Section 12389, and Section 12743.

Section 2278.56 Use of Names Similar to Affiliate's Name.

Notwithstanding Subdivision (a) of Section 2278.55, a proposed name will not be considered to be an interference with or too similar to the name of an Affiliate if use of the proposed name is not likely to mislead the public, and if the following are provided to the Commissioner:

(a) a legally binding written consent from each affected Affiliate which states that the Affiliate does not object to use of the proposed name in California by the Applicant, and which states that the written consent is irrevocable and unconditional. The written consent shall be signed by each Affiliate's chairman, president or any vice president, and shall be signed by each Affiliate's corporate secretary, an assistant secretary, chief financial officer, or assistant treasurer; and

(b) a legally binding written commitment from an officer of the Applicant and a legally binding written commitment from an officer of each affected Affiliate that neither the Applicant nor the Affiliate shall use any confusion about their names, as a defense in any legal or other proceeding to avoid a claim which is against the Applicant or any affected Affiliate. The written commitment shall state that it is irrevocable and unconditional. The written commitment shall be signed by the Applicant's and each Affiliate's chairman, president or any vice president, and shall be signed by the Applicant's and each Affiliate's corporate secretary, an assistant secretary, chief financial officer, or assistant treasurer.

Note: Authority cited: Sections 700, 720, and 790.10, Insurance Code, *CalFarm Ins. Co. v. Deukmejian*, (1989) 48 Cal.3d 805, and *20th Century Ins. Co. v. Garamendi*, (1994) 8 Cal. 4th 216. Reference: Section 742.42, Sections 881 through 886, Section 10970, Section 12162, Section 12389, and Section 12743.

Section 2278.57 Operating Names.

Except for filings made with the Commissioner, a Licensee that is a foreign or alien insurer or other entity that conducts business in California under an operating name that has been approved by the Commissioner shall conduct business in California using only its approved operating name and not its true name. The foregoing includes, but is not limited to, the name used in connection with the following:

- (a) insurance policies;
- (b) endorsements to insurance policies;
- (c) assumption certificates;
- (d) advertising materials;
- (e) brochures, sales literature, information materials;
- (f) information provided or made available to the public;
- (g) stock sales announcements, circulars, prospectuses, and related advertisements and literature;
- (h) correspondence (including electronic mail);
- (i) telephone communications;
- (j) internet advertisements.

Note: Authority cited: Sections 700, 720, and 790.10, Insurance Code, *CalFarm Ins. Co. v. Deukmejian*, (1989) 48 Cal.3d 805, and *20th Century Ins. Co. v. Garamendi*, (1994) 8 Cal. 4th 216. Reference: Section 742.42, Sections 881 through 886, Section 10970, Section 12162, Section 12389, and Section 12743.

Section 2278.58 Commissioner's Discretion.

(a) The Commissioner may waive strict compliance with the requirements of this Article if the Commissioner determines, in his or her discretion, that a proposed name will not constitute or create an interference with or be too similar to the name of a business or entity (including a name that has been reserved pursuant to Insurance Code Section 881 and a proposed name for which an application is pending before the Commissioner), or when a proposed name is not likely to mislead the public in any respect.

(b) The discretion of the Commissioner in approving and disapproving names is not exhausted by these regulations.

Note: Authority cited: Sections 700, 720, and 790.10, Insurance Code, *CalFarm Ins. Co. v. Deukmejian*, (1989) 48 Cal.3d 805, and *20th Century Ins. Co. v. Garamendi*, (1994) 8 Cal. 4th 216. Reference: Section 742.42, Sections 881 through 886, Section 10970, Section 12162, Section 12389, and Section 12743.

Section 2278.59 Form N-1

REQUEST FOR NAME APPROVAL AND RESERVATION

(FORM N-1)

To: Name Reservation Unit
Legal Division
Department of Insurance
45 Fremont Street, 24th Floor
San Francisco, CA 94105

SECTION 1 - PROPOSED NAME(S)

Requested Name: _____

1st Alternative Name : _____

2nd Alternative Name: _____

SECTION 2 - BACKGROUND INFORMATION

Contact Person: Name _____

 Title _____

 Address _____

 email _____

 direct phone _____

 fax _____

Applicant Name and Address: _____

Applicant's State of Domicile: _____

Applicant's Federal Employer Identification Number: _____

Applicant's NAIC Number: _____

Applicant's NAIC Group Name and NAIC Group Number (if applicable): _____

If Applicant is not an Affiliate (*see*, §2257.51(d)), name(s) of Applicant's owners or proposed owners: _____

(attach separate page if needed)

Organizational Chart: Attach organizational chart that identifies all Affiliates (*see*, §2257.51(d)), including parent companies and subsidiaries. If Applicant has not yet been formed, the organizational chart must specify the proposed position of Applicant on the organizational chart upon completion of Applicant's formation

Classes of Insurance (per Insurance Code) transacted or to be transacted in California: _____

Specialty lines (per Insurance Code) transacted or to be transacted in California

SECTION 3 - APPLICANT SEEKING A NAME CHANGE

If the Applicant is seeking approval of a proposed name change, state the reason for the proposed name change:

SECTION 4 - APPLICANT - UNDERWRITTEN TITLE COMPANY

If Applicant is, or will be, an underwritten title company, state all counties in which business is, or will be, transacted:

SECTION 5 - PENDING APPLICATIONS (ALL APPLICANTS)

List every application or filing that is pending with the Commissioner, filed either by or pertaining to Applicant, or filed by or pertaining to an Affiliate (*see*, §2257.51(d)), regarding transaction of its (or its Affiliate's) business in California. This includes, but is not limited to, applications for a certificate of authority, an amended certificate of authority, a securities permit, applications or filings required by Insurance Code 1011(c), and applications pursuant to Insurance Code §§1215 *et seq.* The foregoing does not include applications pertaining to dividends or pertaining to property and casualty rate and form filings.

SECTION 6 - APPLICANTS - FOREIGN OR ALIEN COMPANY

An Applicant that is, or will be, a foreign or alien insurer or other entity that proposes to use a fictitious business name or operating name in California, must submit a certified copy of a resolution by its board of directors (or if its form of business organization does not have a board of directors, then its governing body) authorizing the use of the fictitious business name or operating name in California.

SECTION 7 - APPLICANT TO WHICH REGULATION SECTION 2303.15(q) APPLIES

An applicant to which the requirements of California Code of Regulations, Title 10, Chapter 5, Subchapter 3, Article 1 §2303.15(q) applies shall submit a formal commitment, as set forth in regulation §2303.15(r), that it shall comply with regulation §2303.15(q).

Note: Authority cited: Sections 700, 720, and 790.10, Insurance Code, *CalFarm Ins. Co. v. Deukmejian*, (1989) 48 Cal.3d 805, and *20th Century Ins. Co. v. Garamendi*, (1994) 8 Cal. 4th 216. Reference: Section 742.42, Sections 881 through 886, Section 10970, Section 12162, Section 12389, and Section 12743.