

AMENDED IN SENATE MARCH 18, 2025

SENATE BILL

No. 354

Introduced by Senator Limón

February 12, 2025

An act to ~~amend Section 791.07~~ add Article 6.65 (commencing with Section 792) to Chapter 1 of Part 2 of Division 1 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 354, as amended, Limón. Insurance—applications: investigative consumer reports. *Consumer Privacy Protection Act of 2025.*

The California Consumer Privacy Act of 2018 (CCPA) grants to a consumer various rights with respect to personal information that is collected by a business, including the right to request that a business delete personal information about the consumer that the business has collected from the consumer. The California Privacy Rights Act of 2020, an initiative measure approved by the voters as Proposition 24 at the November 3, 2020, statewide general election, amended, added to, and reenacted the CCPA. Existing law, the Insurance Information and Privacy Protection Act, establishes privacy standards for the collection, use, and disclosure of information gathered in connection with insurance transactions by insurance institutions, agents, and insurance-support organizations.

This bill would enact the Insurance Consumer Privacy Protection Act of 2025 to establish new standards for the collection, processing, retaining, or sharing of consumers' personal information by insurance licensees and their third-party service providers. The bill would authorize processing of a consumer's personal information for specified purposes, including in connection with an insurance transaction. The

bill would require a licensee to provide a clear and conspicuous privacy notice that includes specified information to a consumer at specified times, and would prohibit the processing of a consumer's personal information unless it is consistent with and complies with that notice and is reasonably necessary and proportionate to achieve the purposes related to an insurance transaction or other purpose the consumer requested or authorized. The bill would also require a licensee to provide a privacy rights notice, as specified, to each consumer with whom the licensee has an ongoing business relationship. The bill would authorize a licensee to retain personal information, as specified, and would require a licensee to develop a written records retention policy and schedule. The bill would require a licensee to provide specified information to a consumer if it makes an adverse underwriting decision, and would provide a process by which a consumer may correct, amend, or delete any personal or publicly available information about the consumer in the possession of the licensee or its third-party service providers. The bill would require a contract between a licensee and a third-party service provider to clearly govern the processing of personal information performed on behalf of the licensee. The bill would prohibit retaliation against a consumer because the consumer exercised or attempted to exercise their rights under the act. The bill would prohibit public disclosure of specified systems, processes, policies, procedures, and plans that are disclosed to the Insurance Commissioner.

To determine if a licensee or third-party service provider has been or is engaged in any conduct in violation of the act, this bill would authorize the commissioner to examine and investigate the licensee or third-party service provider, then hold a hearing regarding those violations. If a hearing results in a finding of a knowing violation, the bill would require the commissioner to issue a cease and desist order and would authorize a penalty of at least \$5,000, not to exceed \$1,000,000 in the aggregate for multiple violations. The bill would authorize additional fines and suspension or revocation of the licensee's license if a cease and desist order is violated. Under the bill, a person who knowingly and willfully obtains information about a consumer from a licensee or third-party service provider under false pretenses would be guilty of a misdemeanor, punishable by a fine of up to \$50,000, imprisonment for not more than one year in a county jail, or both, thus creating a crime and imposing a state-mandated local program.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of

public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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

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

~~Existing law generally regulates the business of insurance in the state and sets standards for the collection, use, and disclosure of information gathered in connection with insurance transactions. Existing law prohibits an insurance institution, agent, or insurance-support organization from preparing or requesting an investigative consumer report about an individual for an insurance application unless they inform the individual of specified information and take specified actions regarding personal interviews.~~

~~This bill would make technical, nonsubstantive changes to those provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

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

- 1 *SECTION 1. (a) The Legislature finds and declares all of the*
- 2 *following:*
- 3 *(1) In 1972, California voters amended the California*
- 4 *Constitution to include the right of privacy among the*
- 5 *“inalienable” rights of all people. Voters acted in response to the*
- 6 *accelerating encroachment on personal freedom and security*
- 7 *caused by increased data collection and usage in contemporary*
- 8 *society. The amendment established a legal and enforceable*
- 9 *constitutional right of privacy for every Californian. Fundamental*
- 10 *to this right of privacy is the ability of individuals to control the*
- 11 *use, including the sale, of their personal information.*
- 12 *(2) A major milestone in consumer privacy occurred in 2018,*
- 13 *when more than 629,000 California voters signed petitions to*
- 14 *qualify the California Consumer Privacy Act of 2018 (CCPA) for*
- 15 *the ballot. In response to the measure’s qualification, the*

1 *Legislature enacted the CCPA into law. The CCPA gives California*
2 *consumers the right to learn what information a business has*
3 *collected about them, to delete their personal information, to stop*
4 *businesses from selling their personal information, including using*
5 *it to target them with advertisements that follow them as they*
6 *browse the internet from one internet website to another, and to*
7 *hold businesses accountable if they do not take reasonable steps*
8 *to safeguard their personal information.*

9 *(3) Even before the CCPA took effect, the Legislature considered*
10 *many bills in 2019 to amend the law, some of which would have*
11 *significantly weakened it. In response, the proponents of the CCPA*
12 *qualified for the ballot Proposition 24, the California Privacy*
13 *Rights Act of 2020, which expanded upon the rights granted under*
14 *the CCPA, and expressly extended the application of the act to*
15 *licensees. In November 2020, voters approved Proposition 24 by*
16 *a significant margin, with nearly 9,400,000 votes cast in support.*

17 *(4) Despite the mention of insurance business in Proposition*
18 *24, California's insurance privacy laws, last adopted in 1980 and*
19 *2002, continue to be decades out of date and lag behind the broadly*
20 *applicable privacy laws. These legacy laws are not suited to protect*
21 *insurance consumers, given the data-intensive nature of the*
22 *insurance business, and the increasingly complex manner in which*
23 *insurance businesses collect and use information about consumers.*

24 *(5) Privacy is vitally important in the context of the insurance*
25 *business. More than almost any other industry, insurers require*
26 *significant amounts of personal information from consumers to*
27 *properly manage risks. Increasingly, insurance licensees are using*
28 *sophisticated technologies to collect and process consumers'*
29 *personal information, which has increased the volume and*
30 *sensitivity of personal information that licensees collect about*
31 *consumers. Developments in insurance business structures have*
32 *led to increasingly complex contracting arrangements between*
33 *licensees and service providers, with the attendant risk in supply*
34 *chain data breaches. However, California's outdated insurance*
35 *privacy laws have not kept pace with the changing insurance*
36 *marketplace. There is a significant lack of oversight into how much*
37 *data licensees collect, what purposes it can be used for, who it can*
38 *be shared with, and how long it can be retained.*

39 *(6) The absence of effective oversight leaves consumers*
40 *vulnerable. Currently, consumers are presented with privacy*

1 notices that are confusing and uninformative, and may also be
2 subject to the overcollection of their personal information,
3 proliferation of that information to recipients not contemplated
4 by the consumer, unwanted marketing contacts, fraud arising from
5 data breaches, underwriting based on data that is stale or
6 unrepresentative, or retaliation for exercising privacy rights,
7 among other risks.

8 (b) It is the intent of the Legislature that this act addresses the
9 gaps in consumer protections and gives the Insurance
10 Commissioner and the Department of Insurance powerful tools to
11 protect consumer privacy, as follows:

12 (1) *Data minimization: ensures that licensees are only collecting*
13 *personal information related to the insurance transaction requested*
14 *by the consumer.*

15 (2) *Record retention and destruction: ensures that licensees*
16 *securely destroy personal information that is no longer needed.*

17 (3) *Oversight of third-party service provider arrangements:*
18 *ensures that contractual arrangements between licensees and*
19 *vendors provide for the security of consumers' personal*
20 *information, and that the information will only be used for the*
21 *service provided by the licensee.*

22 (4) *Opt in: ensures that consumers' personal information will*
23 *primarily be used to provide the insurance product requested by*
24 *the consumer, and will not be used for other purposes without the*
25 *express consent of the consumer.*

26 (5) *Limitation on sensitive personal information: ensures that*
27 *consumers' sensitive personal information will only be used to*
28 *provide the insurance product requested by the consumer.*

29 (6) *Notices to consumers: includes reasonable notice*
30 *requirements to provide consumers with meaningful information*
31 *about what information is collected, how it is used, to whom it is*
32 *disclosed, and what rights the consumer has under the law.*

33 (7) *Transparency: ensures that consumers have the opportunity*
34 *to control the use of their personal information for purposes other*
35 *than the insurance transaction.*

36 (8) *Governance processes and procedures on data use: ensures*
37 *that licensees establish and follow protocols to protect consumers'*
38 *personal information and provide data breach notifications.*

(9) *Access and nonretaliation:* ensures that consumers have reasonable access to their privacy rights and are not penalized for exercising those rights.

(c) By enacting this act, the Legislature intends to provide consumers with reasonable privacy protections that address the demands of an information-intensive insurance business climate.

(d) The Legislature finds and declares that this act furthers the purpose and intent of the California Privacy Rights Act of 2020.

SEC. 2. Article 6.65 (commencing with Section 792) is added to Chapter 1 of Part 2 of Division 1 of the Insurance Code, to read:

Article 6.65. Insurance Consumer Privacy Protection Act of 2025

792. The purpose of this article is to establish standards for the collection, processing, retaining, or sharing, collectively known as “processing,” of consumers’ personal information by licensees and their third-party service providers to maintain a balance between the need for information by those in the business of insurance and consumers’ need for fairness and protection in the processing of consumers’ personal information. These standards address the need to do all of the following:

(a) *Protect consumers' personal information processed by licensees or their third-party service providers.*

(b) Inform consumers of the categories of personal information that are processed.

(c) Inform consumers of the categories of sources from which consumers' personal information is collected, and identify recipients when that information is shared.

(d) Permit consumers to choose whether or not to opt in to the sharing of their personal information by licensees for purposes other than insurance transactions in certain circumstances.

(e) Permit individual consumers to request access to their personal information to verify or dispute the accuracy of the information.

(f) *Inform consumers of the reasons for adverse underwriting decisions.*

1 (g) *Require data minimization practices for all licensees and*
2 *their third-party service providers in the processing of consumers’*
3 *personal information.*

4 (h) *Provide accountability for the improper processing of*
5 *consumers’ personal information by licensees and their third-party*
6 *service providers in violation of this article.*

7 792.100. (a) *On and after the operative date of this article,*
8 *the obligations imposed by this article shall apply to a licensee*
9 *and their third-party service providers that do any of the following:*

10 (1) *Process consumers’ personal information in connection*
11 *with the business of insurance.*

12 (2) *Engage in insurance transactions with consumers.*

13 (3) *Engage in activities not related to insurance transactions*
14 *involving consumers’ personal information.*

15 (b) *The obligations imposed by this article shall not apply to*
16 *depository institutions or affiliates of depository institutions that*
17 *are subject to the Gramm-Leach-Bliley Act (Subchapter I*
18 *commencing with Section 6801) of Chapter 94 of Title 15 of the*
19 *United States Code), unless the affiliates are licensees for purposes*
20 *of this article.*

21 792.105. *The protections of this article shall extend to a*
22 *consumer who meets any of the following criteria:*

23 (a) *Whose personal information is processed in connection with*
24 *an insurance transaction.*

25 (b) *Who has previously engaged in insurance transactions with*
26 *a licensee or third-party service provider involving the consumers’*
27 *personal information.*

28 (c) *Whose personal information is used for purposes other than*
29 *insurance transactions by licensees and third-party service*
30 *providers.*

31 792.110. *For purposes of this article:*

32 (a) *“Address of record” means either of the following:*

33 (1) *A consumer’s last known United States Postal Service*
34 *(USPS) mailing address shown in the licensee’s records.*

35 (2) *A consumer’s last known email address as shown in the*
36 *licensee’s records, if the consumer has consented to conducting*
37 *business electronically pursuant to Title 2.5 (commencing with*
38 *Section 1633.1) of Part 2 of Division 3 of the Civil Code.*

39 (b) *“Adverse underwriting decision” means any of the following*
40 *actions by a licensee or producer in the business of insurance:*

1 (1) A denial, in whole or in part, of insurance coverage
2 requested by a consumer.

3 (2) A termination of insurance coverage for reasons other than
4 nonpayment of premium or, for title insurance coverage, for
5 reasons other than transfer of title to the insured property or
6 satisfaction or release of the insured lien interest.

7 (3) A rescission of the insurance policy.

8 (4) Refusing to renew an existing insurance policy or offering
9 to renew an existing insurance policy at higher than standard
10 rates.

11 (5) Any of the following for property or casualty insurance
12 coverage:

13 (A) Placement by a licensee of a risk with a residual market
14 mechanism or an insurer that specializes in substandard risks.

15 (B) Placement by an insurer or producer of a risk with an
16 insurer not approved to conduct business in this state.

17 (C) Charging a higher rate based on information that differs
18 from the information that the consumer furnished.

19 (6) For life, health, or disability insurance coverage, an offer
20 to insure at higher than standard rates.

21 (c) “Affiliate” or “affiliated” means a person that directly, or
22 indirectly through one or more intermediaries, controls, is
23 controlled by, or is under common control with another person.
24 For purposes of this definition, “control” means any of the
25 following:

26 (1) Ownership of, or power to vote with an interest equaling 25
27 percent or more of the outstanding shares of a class of voting
28 security of the company, directly or indirectly, or acting through
29 one or more other persons.

30 (2) Control over the election of a majority of the directors,
31 trustees, or general partners of the company, or individuals
32 exercising similar functions of the company.

33 (3) The power to exercise, directly or indirectly, a controlling
34 influence over the management or policies of the company, as the
35 commissioner determines.

36 (d) “Aggregated consumer information” means information
37 that relates to a group or category of consumers, that is
38 deidentified, and that is not linked or reasonably linkable to a
39 consumer, household, or specific electronic device.

1 (e) “Applicant” means a person who seeks to contract for
2 insurance coverage, other than a person seeking group insurance
3 that is not individually underwritten.

4 (f) “Biometric information” means an individual’s
5 physiological, biological, or behavioral characteristics that can
6 be used, singly or in combination with other identifying
7 information, to establish a consumer’s identity. Biometric
8 information may include an iris or retina scan, fingerprint, face,
9 hand, palm, ear, vein pattern, and voiceprint, from which an
10 identifier template, such as a faceprint, a minutiae template, or a
11 voiceprint, can be extracted, and keystroke patterns or rhythms,
12 gait patterns or rhythms, or any other means to identify an
13 individual.

14 (g) “Clear and conspicuous notice” means a notice that is
15 reasonably understandable and designed to call attention to the
16 nature and significance of its contents.

17 (h) “Collect” or “collecting” means buying, renting, gathering,
18 obtaining, receiving, or accessing a consumer’s personal
19 information.

20 (i) “Commissioner” means the Insurance Commissioner.

21 (j) “Consent” means a method of capturing a consumer’s
22 consent that is capable of being recorded or maintained for as
23 long as the licensee has a business relationship with a consumer;
24 or that the licensee or its third-party service provider is required
25 to maintain the information pursuant to this article.

26 (k) “Consumer” means an individual who is a resident of
27 California whose personal information is processed, may be
28 processed, or has been processed in the business of insurance,
29 including a current or former applicant, claimant, beneficiary,
30 policyholder, insured, participant, annuitant, employee, or
31 certificate holder. “Consumer” includes an individual’s legal
32 representative.

33 (l) A consumer is in an ongoing business relationship with a
34 licensee if there is a continuing relationship between the consumer
35 and the licensee based on one or more insurance transactions
36 provided by the licensee. For title insurance, continuation of
37 coverage under an existing policy does not constitute an ongoing
38 business relationship unless or until there is a claim, renewal, or
39 modification.

1 (2) A consumer is a resident of this state if the consumer's last
2 known mailing address, as shown in the records of the licensee,
3 is in this state unless the last known address of record is deemed
4 invalid pursuant to subdivision (h) of Section 792.175.

5 (l) "Consumer report" has the same meaning as defined in
6 Section 603(d) of the federal Fair Credit Reporting Act (Section
7 1681a(d) of Title 15 of the United States Code).

8 (m) "Consumer reporting agency" has the same meaning as
9 defined in Section 603(f) of the federal Fair Credit Reporting Act
10 (Section 1681a(f) of Title 15 of the United States Code).

11 (n) "Dark pattern" means a user interface designed or
12 manipulated with the substantial effect of subverting or impairing
13 user autonomy, decisionmaking, or choice.

14 (o) "Deidentified information" means information that cannot
15 reasonably identify, relate to, describe, be capable of being
16 associated with, or be linked, directly or indirectly, to a particular
17 consumer; provided that a licensee that uses deidentified
18 information meets all the following criteria:

19 (1) Has implemented technical safeguards designed to prohibit
20 reidentification of the consumer to whom the information may
21 pertain.

22 (2) Has implemented reasonable business policies that
23 specifically prohibit reidentification of the information.

24 (3) Has implemented business processes designed to prevent
25 inadvertent release of deidentified information.

26 (4) Makes no attempt to reidentify the information.

27 (5) Does not retain any sensitive personal information.

28 (6) Other requirements pertaining to deidentification that the
29 commissioner specifies in regulation.

30 (p) "Delete" and "deleted" means to remove or destroy
31 personal information by permanently erasing the personal
32 information on existing systems so that it is not maintained in
33 human or machine-readable form and cannot be retrieved or
34 utilized in that form.

35 (q) "Digital application" means an application that a consumer
36 accesses and manipulates using a specialized electronic device,
37 computer, mobile device, tablet, or other device with a display
38 screen, including any add-ons or additional content for that
39 application.

1 (r) *“Financial product or service” means a product or service*
2 *that a financial holding company could offer by engaging in an*
3 *activity that is financial in nature or incidental to that financial*
4 *activity pursuant to Section 4(k) of the Bank Holding Company*
5 *Act of 1956 (Section 1843(k) of Title 12 of the United States Code).*
6 *“Financial service” includes a financial institution’s evaluation*
7 *or brokerage of information that the financial institution collects*
8 *in connection with a request or an application from a consumer*
9 *for a financial product or service.*

10 (s) (1) *Subject to paragraphs (2) and (3), “genetic information”*
11 *means information about any of the following:*

12 (A) *An individual’s genetic tests.*

13 (B) *The genetic tests of family members of an individual.*

14 (C) *The manifestation of a disease or disorder in family members*
15 *of an individual.*

16 (D) *A request for, or receipt of, genetic services, or participation*
17 *in clinical research that includes genetic services, by an individual*
18 *or a family member of the individual.*

19 (2) *“Genetic information” concerning an individual or family*
20 *member of an individual includes the genetic information of both*
21 *of the following:*

22 (A) *A fetus carried by the individual or family member who is*
23 *pregnant.*

24 (B) *An embryo legally held by an individual or family member*
25 *utilizing an assisted reproductive technology.*

26 (3) *“Genetic information” does not include information about*
27 *the sex or age of any individual.*

28 (t) *“Health care” means both of the following:*

29 (1) *Preventive, diagnostic, therapeutic, rehabilitative,*
30 *maintenance, or palliative care, services, procedures, tests, or*
31 *counseling that does either of the following:*

32 (A) *Relates to the physical, mental, or behavioral condition of*
33 *an individual.*

34 (B) *Affects the structure or function of the human body or any*
35 *part of the human body, including the banking of blood, sperm,*
36 *organs, or any other tissue.*

37 (2) *Prescribing, dispensing, or furnishing drugs or biologicals,*
38 *medical devices, or health care equipment and supplies to an*
39 *individual.*

1 (u) “Health care provider” means a health care provider, as
2 defined by Section 160.103 of Title 45 of the Code of Federal
3 Regulations, who meets the licensing, certification, or other
4 accreditation required by state law to provide health care.

5 (v) “Health information” means a consumer’s information or
6 data, except their age or gender, created by or derived from a
7 health care provider or the consumer that relates to any of the
8 following:

9 (1) The past, present, or future physical, mental, or behavioral
10 health or condition of an individual.

11 (2) The genetic information of an individual.

12 (3) The provision of health care to an individual.

13 (4) Payment for the provision of health care to an individual.

14 (w) (1) “Insurance support organization” means a person who
15 regularly engages in the processing of a consumer’s information
16 for the primary purpose of providing insurers or producers with
17 information in connection with the business of insurance, including
18 any of the following actions:

19 (A) The furnishing of consumer reports or investigative
20 consumer reports to licensees or other insurance support
21 organizations for use in connection with the business of insurance.

22 (B) The processing of personal information from licensees or
23 other insurance support organizations to detect or prevent
24 insurance fraud and insurance crime, material misrepresentation,
25 or material nondisclosure in connection with the business of
26 insurance.

27 (C) The processing of personal information in connection with
28 an insurance transaction that may have an application in
29 transactions or activities other than insurance transactions.

30 (2) “Insurance support organization” does not include
31 producers, government institutions, insurers, health care providers,
32 reinsurers, and third-party service providers. However, “insurance
33 support organizations” shall otherwise be subject to the
34 requirements pertaining to third-party service providers pursuant
35 to this article.

36 (x) (1) “Insurance transaction” means a transaction or service
37 by or on behalf of a licensee and its affiliates related to any of the
38 following:

1 (A) *The underwriting or the determination of a consumer's*
2 *eligibility for or the amount of insurance coverage, rate, benefit,*
3 *payment, or claim settlement.*

4 (B) *Licensees or third-party service providers performing*
5 *services, including maintaining or servicing accounts, providing*
6 *customer service, processing requests or transactions, verifying*
7 *customer information, processing payments, providing financing,*
8 *providing analytic services, providing storage, or any similar*
9 *services.*

10 (C) *Provision of "value-added services or benefits" in*
11 *connection with the business of insurance.*

12 (D) *Processing of personal information using algorithmic or*
13 *automated decisionmaking means.*

14 (E) *An actuarial study related to rating, risk management, or*
15 *exempt research activities conducted by or for the benefit of the*
16 *licensee using consumers' personal information.*

17 (F) *The short-term, transient use of a consumer's personal*
18 *information in connection with the consumer's current interaction*
19 *with the licensee, including nonpersonalized advertising shown*
20 *as part of a consumer's current interaction with the licensee, if*
21 *the consumer's personal information is not otherwise shared or*
22 *sold and is not used to build a profile about the consumer or*
23 *otherwise alter the consumer's experience outside the current*
24 *interaction with the licensee.*

25 (G) *Detection or prevention of insurance fraud, crime related*
26 *to insurance claims, material misrepresentation, or material*
27 *nondisclosure.*

28 (H) *Providing personal information to statistical agents,*
29 *reinsurers, or insurance support organizations, provided that the*
30 *personal information is only used for the purposes for which it is*
31 *shared.*

32 (2) *"Insurance transaction" does not include processing related*
33 *to marketing or research.*

34 (y) (1) *"Insurer" means any of the following:*

35 (A) *A corporation, association, or partnership required to be*
36 *licensed by the commissioner to assume risk or otherwise*
37 *authorized to assume risk, including a nonprofit hospital, medical,*
38 *or health care service organization, health maintenance*
39 *organization, reciprocal exchange, interinsurer, Lloyd's insurer,*

1 fraternal benefit society, or multiple-employer welfare
2 arrangement.

3 (B) A self-funded plan subject to regulation by the commissioner.

4 (C) A preferred provider organization administrator.

5 (2) “Insurer” does not include producers, insurance support
6 organizations, foreign-domiciled risk retention groups, reinsurers,
7 or surplus line insurers.

8 (z) “Investigative consumer report” means a consumer report
9 or portion of a consumer report in which information about an
10 individual’s character, general reputation, personal
11 characteristics, or mode of living is obtained through personal
12 interviews with the individual’s neighbors, friends, associates,
13 acquaintances, or others who may have knowledge concerning
14 that information. However, that information does not include
15 specific factual information on a consumer’s credit record obtained
16 directly from a creditor of the consumer or from a consumer
17 reporting agency when the information was obtained directly from
18 a creditor of the consumer or from the consumer.

19 (aa) (1) “Licensee” means a person licensed, authorized to
20 operate, or registered, or required to be licensed, authorized, or
21 registered pursuant to this code, including all of the following:

22 (A) An insurer.

23 (B) A producer.

24 (C) A nonadmitted insurer that accepts business placed through
25 a licensed surplus line broker pursuant to Chapter 6 (commencing
26 with Section 1760).

27 (D) A director, officer, employee, or agent of a licensee.

28 (2) “Licensee” does not include a purchasing group or a risk
29 retention group chartered and licensed in a state other than this
30 state or a licensee that is acting as an assuming insurer that is
31 domiciled in another state or jurisdiction.

32 (ab) “Neural data” means information that is generated by
33 measuring the activity of a consumer’s central or peripheral
34 nervous system, and that is not inferred from nonneural
35 information.

36 (ac) “Nonadmitted insurer” means an insurer that has not been
37 granted a certificate of authority or is not otherwise authorized
38 by the commissioner to transact the business of insurance in this
39 state.

1 (ad) “Person” means an individual, corporation, association,
2 partnership, or other legal entity.

3 (ae) “Personal information” means information processed in
4 the business of insurance that identifies, relates to, describes, is
5 reasonably capable of being associated with, or could reasonably
6 be linked, directly or indirectly, with a particular consumer or
7 household.

8 (1) “Personal information” includes any of the following if it
9 identifies, relates to, describes, is reasonably capable of being
10 associated with, or could be reasonably linked, directly or
11 indirectly, with a particular consumer or household:

12 (A) Identifiers such as a real name, alias, postal address, unique
13 personal identifier, online identifier, Internet Protocol address,
14 email address, account name, social security number, driver’s
15 license number, passport number, or other similar identifiers.

16 (B) Personal information described in subdivision (e) of Section
17 1798.80 of the Civil Code.

18 (C) Characteristics of protected classifications pursuant to state
19 or federal law.

20 (D) Commercial information, including records of personal
21 property, products or services purchased, obtained, or considered,
22 or other purchasing or consuming histories or tendencies.

23 (E) Biometric information.

24 (F) Internet or other electronic network activity information,
25 including browsing history, search history, and information
26 regarding a consumer’s interaction with an internet website
27 application or advertisement.

28 (G) Geolocation data.

29 (H) Auditory, electronic, visual, thermal, olfactory, or other
30 sensory information.

31 (I) Professional or employment-related information.

32 (J) Education information that is not publicly available,
33 personally identifiable information as defined in the Family
34 Educational Rights and Privacy Act (Section 1232g of Title 20 of
35 the United States Code) and related regulations (Part 99
36 (commencing with Section 99.1) of Title 34 of the Code of Federal
37 Regulations).

38 (K) Inferences drawn from any of the information identified in
39 this paragraph to create a profile about a consumer reflecting the
40 consumer’s preferences, characteristics, character, habits,

1 avocations, finances, occupation, general reputation, credit, health,
2 psychological trends, predispositions, behavior, attitudes,
3 intelligence, abilities, and aptitudes.

4 (L) Sensitive personal information.

5 (2) “Personal information” does not include publicly available
6 information or lawfully obtained, truthful information that is a
7 matter of public concern.

8 (A) For purposes of this paragraph, “publicly available” means
9 any of the following:

10 (i) Information that is lawfully made available from federal,
11 state, or local government records.

12 (ii) Information that a licensee, reinsurer, or third-party service
13 provider has a reasonable basis to believe is lawfully made
14 available to the general public by the consumer or from widely
15 distributed media.

16 (iii) Information made available by a person to whom the
17 consumer has disclosed the information if the consumer has not
18 restricted the information to a specific audience.

19 (B) “Publicly available” does not mean biometric information
20 collected about a consumer without the consumer’s knowledge.

21 (3) “Personal information” can exist in various formats,
22 including all of the following:

23 (A) Physical formats, including paper documents, printed
24 images, vinyl records, or video tapes.

25 (B) Digital formats, including text, image, audio, or video files.

26 (C) Abstract digital formats, including compressed or encrypted
27 files, metadata, or artificial intelligence systems that are capable
28 of outputting personal information.

29 (4) “Personal information” does not include aggregated
30 consumer information, deidentified information, or publicly
31 available information.

32 (af) “Precise geolocation” means data that is used or intended
33 to be used to locate a consumer within a geographic area that is
34 equal to or less than the area of a circle with a radius of 1,850
35 feet, including trip or routing information that might be used to
36 predict the travel habits of a consumer, except as prescribed by
37 regulations.

38 (ag) “Privileged information” means personal information that
39 is collected in connection with or in reasonable anticipation of a
40 claim for insurance benefits or a civil or criminal proceeding

1 *involving a consumer, until the claim or proceeding is finalized.*
2 *However, information that otherwise meets the requirements of*
3 *this article shall nevertheless be considered “personal*
4 *information” if it is disclosed in violation of this article.*

5 *(ah) To “process,” “processing,” or a “process” means an*
6 *operation or set of operations performed by a licensee, reinsurer,*
7 *surplus line insurer, or third-party service provider, by manual*
8 *or automated means, on the personal information or sets of*
9 *personal information of a consumer, including the collection, use,*
10 *sharing, storage, disclosure, analysis, deletion, retention, or*
11 *modification of personal information.*

12 *(ai) “Producer” means a person licensed pursuant to Chapter*
13 *5 (commencing with Section 1621), Chapter 5A (commencing with*
14 *Section 1759), Chapter 6 (commencing with Section 1760), Chapter*
15 *7 (commencing with Section 1800), or Chapter 8 (commencing*
16 *with Section 1831).*

17 *(aj) “Publicly available” means information about a consumer*
18 *that a licensee has a reasonable basis to believe is lawfully made*
19 *available from any of the following:*

20 *(1) Federal, state, or local government records.*

21 *(2) Widely distributed media.*

22 *(3) Disclosures to the general public that are required to be*
23 *made pursuant to federal, state, or local law.*

24 *(ak) “Reinsurer” means a legal entity primarily engaged in*
25 *assuming all or part of the risk associated with existing insurance*
26 *policies originally underwritten by insurers, or a legal entity known*
27 *as a retrocessionaire that accepts all or part of one or more*
28 *reinsurance policies issued by a reinsurer.*

29 *(al) “Research activities” means systemic investigation,*
30 *including development, testing, and evaluation, designed to develop*
31 *or contribute to generalizable knowledge if there is sharing of*
32 *personal information with nonaffiliated third parties. “Research*
33 *activities” does not mean any of the following if part of an*
34 *insurance transaction:*

35 *(1) Relating to rating or risk management.*

36 *(2) For actuarial studies.*

37 *(3) Disclosure to an insurance support organization.*

38 *(4) Subject to a research university internal review board or*
39 *privacy board approval that requires use of a process that follows*

1 confidentiality best practices and if a contract agreeing to that
2 protection has been executed.

3 (am) “Residual market mechanism” means the California FAIR
4 Plan Association established pursuant to Chapter 9 (commencing
5 with Section 10090) of Part 1 of Division 2, the assigned risk plan
6 established pursuant to Chapter 1 (commencing with Section
7 11550) of Part 3 of Division 2, and the State Compensation
8 Insurance Fund established pursuant to Chapter 4 (commencing
9 with Section 11770) of Part 3 of Division 2.

10 (an) “Retain,” “retention,” or “retaining” means storing or
11 archiving personal information that is in the continuous possession,
12 use, or control of licensee or a licensee’s third-party service
13 provider.

14 (ao) “Sale,” “sell,” or “selling” means the exchange of
15 personal information to a third party for monetary or other
16 valuable consideration. “Sale” of personal information does not
17 include any of the following sharing of personal information:

18 (1) Disclosing information to a third-party service provider for
19 the purpose of or in support of providing an insurance or financial
20 product or service requested by the consumer.

21 (2) Sharing with or receiving information from an insurance
22 support organization, statistical agent, or reinsurer.

23 (3) Providing information to an affiliate.

24 (4) Transferring personal information to a third party as an
25 asset pursuant to a merger, acquisition, bankruptcy, or other
26 transaction, or a proposed merger, acquisition, bankruptcy, or
27 other transaction in which the party assumes control of all or part
28 of the licensee’s assets.

29 (5) Disclosure pursuant to a consumer’s direction to the licensee
30 to disclose personal information to, or interact with, one or more
31 licensees or other financial institutions.

32 (ap) “Sensitive personal information” means personal
33 information, including all of the following, of a consumer:

34 (1) Social security, driver’s license, state identification card,
35 or passport number.

36 (2) Account login, financial account, debit card, or credit card
37 number in combination with any required security or access code,
38 password, or credentials allowing access to an account.

39 (3) Precise geolocation.

1 (4) *Racial or ethnic origin, citizenship or immigration status,*
2 *religious or philosophical beliefs, or union membership.*

3 (5) *Content of personal mail, personal email, personal text*
4 *messages, or personal voice or video communications, unless the*
5 *person in possession is the intended recipient of the*
6 *communication.*

7 (6) *Genetic or neural data.*

8 (7) *Information about their sex life or sexual orientation.*

9 (8) *Health information.*

10 (9) *Biometric information.*

11 (10) *Additional items specified by the commissioner in*
12 *regulation.*

13 (aq) (1) *“Share,” “shared,” or “sharing” means sharing,*
14 *renting, releasing, disclosing, disseminating, making available,*
15 *transferring, or otherwise communicating orally, in writing, or by*
16 *electronic or other means, a consumer’s personal information by*
17 *a licensee or third-party service provider to a third party, whether*
18 *or not for monetary or other valuable consideration, including*
19 *transactions between a licensee or third-party service provider*
20 *and a third party for the benefit of any person, in which no money*
21 *is exchanged.*

22 (2) *A licensee or third-party service provider does not share*
23 *personal information when any of the following occurs:*

24 (A) *A consumer uses or directs the licensee or third-party service*
25 *provider to intentionally disclose personal information or*
26 *intentionally interact with one or more third parties.*

27 (B) *The licensee or third-party service provider uses or shares*
28 *an identifier for a consumer who has opted out of the sharing of*
29 *the consumer’s personal information or limited the use of the*
30 *consumer’s sensitive personal information for the purposes of*
31 *alerting persons that the consumer has opted out of the sharing*
32 *of the consumer’s personal information or limited the use of the*
33 *consumer’s sensitive personal information.*

34 (C) *The licensee or third-party service provider transfers to a*
35 *third party the personal information of a consumer as an asset*
36 *that is part of a merger, acquisition, bankruptcy, or other*
37 *transaction in which the third party assumes control of all or part*
38 *of the business, if that information is used or shared consistently*
39 *with this article. If a third party materially alters how it uses or*
40 *shares the personal information of a consumer in a manner that*

1 *is materially inconsistent with the promises made at the time of*
2 *collection, it shall provide prior notice of the new or changed*
3 *practice to the consumer. The notice shall be sufficiently prominent*
4 *and robust to ensure that existing consumers can easily exercise*
5 *their consent consistently with this article. This subparagraph*
6 *does not authorize a person to make material, retroactive privacy*
7 *policy changes or make other changes in their privacy policy in a*
8 *manner that would violate the Unfair Practices Act (Chapter 4*
9 *(commencing with Section 17000) of Part 2 of Division 7 of the*
10 *Business and Professions Code).*

11 *(ar) “Statistical agent” means an entity that has been designated*
12 *by the commissioner to collect statistics from licensees and provide*
13 *reports developed from those statistics to the commissioner for*
14 *the purpose of fulfilling the statistical reporting obligations of*
15 *those licensees.*

16 *(as) “Termination of insurance coverage” or “termination of*
17 *an insurance policy” means either a cancellation or nonrenewal*
18 *of an insurance policy, in whole or in part, for any reason other*
19 *than failing to pay a premium as required by the policy.*

20 *(at) “Third-party service provider” means a person, including*
21 *directors, officers, employees, and agents thereof, that contracts*
22 *with a licensee that provides services to the licensee, and processes,*
23 *shares, or otherwise is permitted access to personal information*
24 *through its provision of services to the licensee. “Third-party*
25 *service provider” includes insurance support organizations and*
26 *a person with whom a licensee does not have a continuing business*
27 *relationship and does not have a contract, but may have to share*
28 *personal or publicly available information in connection with an*
29 *insurance transaction pursuant to subdivision (c) of Section*
30 *792.115. “Third-party service provider” does not include*
31 *governmental entities, licensees, affiliates of licensees, or*
32 *reinsurers.*

33 *(au) “Value-added service or benefit” means a product or*
34 *service that meets both of the following criteria:*

35 *(1) Relates to insurance coverage applied for or purchased by*
36 *a consumer.*

37 *(2) Is primarily designed to satisfy one or more of the following:*

38 *(A) Provide loss mitigation or loss control services or products*
39 *designed to mitigate risks related to the insurance requested by*
40 *or offered to a consumer.*

1 (B) Reduce claim costs or claim settlement costs.

2 (C) Provide education about liability risks or risk of loss to
3 persons or property.

4 (D) Monitor or assess risk, identify sources of risk, or develop
5 strategies for eliminating or reducing risk.

6 (E) Enhance the health of the consumer, including care
7 coordination.

8 (F) Enhance financial wellness of the consumer through
9 education or financial planning services.

10 (G) Provide post-loss services.

11 (H) Incentivize behavioral changes to improve the health or
12 reduce the risk of death or disability of a policyholder, potential
13 policyholder, certificate holder, potential certificate holder,
14 insured, potential insured, or applicant.

15 (I) Assist in the administration of employee or retiree benefit
16 insurance coverage.

17 (av) “Verifiable request” means a request that the licensee can
18 reasonably verify, using commercially reasonable methods, made
19 by the consumer whose personal information is the subject of the
20 request or by a person authorized by the consumer to act on the
21 consumer’s behalf.

22 (aw) “Written” or “in writing” includes a writing, including
23 electronic communications subject to the Uniform Electronic
24 Transactions Act (Title 2.5 (commencing with Section 1633.1) of
25 Part 2 of Division 3 of the Civil Code).

26 792.115. (a) A licensee shall exercise due diligence in selecting
27 and overseeing its third-party service providers. A licensee shall
28 develop written procedures for the selection and oversight of
29 third-party service providers and shall make them available to the
30 commissioner upon request. A licensee’s procedures developed
31 pursuant to this section shall be confidential and not subject to
32 public disclosure requests made pursuant to the California Public
33 Records Act (Division 10 (commencing with Section 7920.000) of
34 Title 1 of the Government Code).

35 (b) A contract between a licensee and a third-party service
36 provider shall govern the processing of personal information
37 performed on behalf of the licensee. The contract shall contain
38 clear instructions for processing personal information, the nature
39 and purpose of processing, the types of personal information
40 subject to processing, the duration of processing, and the rights

1 *and obligations of both parties. The contract shall also include*
2 *requirements that the third-party service provider shall do all of*
3 *the following:*

4 *(1) Ensure that each person processing personal information*
5 *is subject to a duty of confidentiality with respect to the personal*
6 *information, and only uses the personal information for legitimate*
7 *duties as assigned.*

8 *(2) Develop and maintain a program of administrative,*
9 *technical, and physical safeguards sufficient to ensure the*
10 *confidentiality, integrity, and availability of personal information*
11 *provided by the licensee.*

12 *(3) Promptly report to the licensee and the commissioner any*
13 *incident affecting the confidentiality, integrity, or availability of*
14 *personal information, including an event constituting a breach*
15 *pursuant to subdivision (g) of Section 1798.82 the Civil Code.*

16 *(4) Unless retention of the personal information is otherwise*
17 *required by law, delete the personal information as of the date*
18 *specified in the contract between the licensee and third-party*
19 *service provider, or upon the conclusion of the provision of*
20 *services, unless the licensee specifies an earlier destruction date.*

21 *(5) Upon the reasonable request of the licensee, make available*
22 *to the licensee all information in its possession necessary to*
23 *demonstrate the third-party service provider's compliance with*
24 *this article.*

25 *(6) Provide reasonable assistance to the commissioner with*
26 *respect to an investigation or proceeding pursuant to this code,*
27 *or to the licensee with respect to a consumer request pursuant to*
28 *this article.*

29 *(7) Engage a subcontractor pursuant to a written contract that*
30 *requires the subcontractor to comply with the same obligations*
31 *as the third-party service provider with respect to the personal*
32 *information.*

33 *(8) Not further process or disclose the personal information*
34 *obtained from or on behalf of the licensee other than as specifically*
35 *stated in the contract.*

36 *(9) Promptly notify the licensee if the third-party service*
37 *provider is no longer able to comply with its obligations under the*
38 *contract, in which case the licensee has the right to terminate the*
39 *contract.*

1 (c) Notwithstanding subdivision (b), in connection with an
2 insurance transaction, a licensee may share a consumer's personal
3 information with a third-party service provider with whom the
4 licensee has no ongoing business relationship and with whom the
5 licensee has no written contract with the consent of the consumer
6 and only to the extent necessary to provide the temporary service
7 requested by the licensee on behalf of the consumer.

8 (d) The section applies to a contract between a licensee and a
9 third-party service provider that is executed, amended, or renewed
10 after the effective date of this article. If a licensee has an in-force
11 contract with a third-party service provider that collects, processes,
12 retains, or shares any consumer's personal information, and the
13 contract has not been renewed after the effective date of this article,
14 the licensee shall notify the third-party service provider of the
15 requirements of this article.

16 (e) This article applies only to a third-party service provider
17 that processes personal information on behalf of a licensee, or in
18 the business of insurance.

19 792.120. (a) A licensee shall not process a consumer's
20 personal information unless both of the following are true:

21 (1) The collection, processing, retention, or sharing of the
22 consumer's personal information is consistent with and complies
23 with the most recent privacy notice provided to the consumer by
24 the licensee.

25 (2) The processing and retention of the consumer's personal
26 information is reasonably necessary and proportionate to achieve
27 the purposes related to an insurance transaction or other purpose
28 the consumer requested or authorized, and not further processed
29 in a manner that is incompatible with those purposes.

30 (b) A licensee shall not permit an employee to collect, process,
31 retain, or share a consumer's personal information, except as
32 relevant and necessary as part of that employee's assigned duties.

33 (c) A licensee shall not process a consumer's sensitive personal
34 information, other than in relation to an insurance transaction.

35 (d) A reinsurer, third-party service provider, or domestic surplus
36 line insurer shall not process a consumer's personal information
37 unless all of the following are true, as applicable:

38 (1) The processing is in compliance with this article.

39 (2) The processing of the consumer's personal information is
40 consistent with and complies with the most recent privacy notice

1 *provided by the reinsurer, third-party service provider, or domestic*
2 *surplus line insurer on its internet website.*

3 *(3) With respect to reinsurers, the processing of the consumer's*
4 *personal information is reasonably necessary and proportionate*
5 *to achieve the purposes related to the reinsurance transaction and*
6 *not further processed in a manner that is incompatible with those*
7 *purposes.*

8 *(4) With respect to third-party service providers and domestic*
9 *surplus line insurers, the processing of the consumer's personal*
10 *information is reasonably necessary and proportionate to achieve*
11 *the purposes related to the purposes for which the third-party*
12 *service provider or domestic surplus line insurer collected the*
13 *information and not further processed in a manner that is*
14 *incompatible with those purposes.*

15 *(e) Other than pursuant to a contract with a licensee pursuant*
16 *to Section 792.115, a reinsurer, third-party service provider, or*
17 *domestic surplus line insurer shall not process a consumer's*
18 *personal information obtained in the business of insurance for a*
19 *purpose unrelated to an insurance transaction.*

20 *792.125. (a) Consistent with this article, a licensee may*
21 *process a consumer's personal information as necessary for all*
22 *of the following purposes:*

23 *(1) In connection with an insurance transaction.*

24 *(2) For compliance with a request or directive from a law*
25 *enforcement or insurance regulatory authority or an*
26 *administrative, criminal, or civil legal process, arbitration, or any*
27 *other legal requirement or order that is binding upon the licensee,*
28 *so long as that law does not interfere with state law, including the*
29 *Reproductive Privacy Act (Article 2.5 (commencing with Section*
30 *123460) of Chapter 2 of Part 2 of Division 106 of the Health and*
31 *Safety Code).*

32 *(3) When otherwise specifically required by state law.*

33 *(4) For a lienholder, mortgagee, assignee, lessor, or other*
34 *person shown on the records of a licensee as having a legal or*
35 *beneficial interest in an insurance policy, to protect that interest,*
36 *if both of the following are true:*

37 *(A) Health information is not shared, unless the sharing would*
38 *otherwise be permitted by this section.*

39 *(B) The information shared is limited to that which is reasonably*
40 *necessary to protect the requestor's legal interests in the policy.*

1 (5) *To permit a party or a representative of a party to a*
2 *proposed or consummated sale, transfer, merger, or consolidation*
3 *of all or part of the business of the licensee to review the*
4 *information necessary for the transaction, if both of the following*
5 *are true:*

6 (A) *Before the consummation of the sale, transfer, merger, or*
7 *consolidation information is only shared as is reasonably necessary*
8 *to enable the recipient to make business decisions about the*
9 *purchase, transfer, merger, or consolidation.*

10 (B) *The recipient agrees not to share the acquired personal*
11 *information for purposes other than the sale, transfer, merger, or*
12 *consolidation.*

13 (6) *To permit a group policyholder to report claims experience*
14 *or conduct an audit of the operations or services of a licensee, if*
15 *the information shared is reasonably necessary for the group*
16 *policyholder to make the report or conduct the audit and is not*
17 *otherwise shared.*

18 (7) *To permit a governmental authority to determine the*
19 *consumer's eligibility for health care benefits for which the*
20 *governmental authority may be liable, so long as any disclosure*
21 *does not interfere with state law, including the Reproductive*
22 *Privacy Act (Article 2.5 (commencing with Section 123460) of*
23 *Chapter 2 of Part 2 of Division 106 of the Health and Safety Code).*

24 (8) *In connection with the marketing of a product or service,*
25 *after receiving affirmative consent from the consumer to use the*
26 *consumer's information in connection with specific marketing*
27 *activity to which the consumer has consented.*

28 (9) *In connection with research activity, after receiving*
29 *affirmative consent from the consumer to use the consumer's*
30 *information in connection with specific research activity to which*
31 *the consumer has consented.*

32 (10) *Additional purposes specified by the commissioner in*
33 *regulation.*

34 (b) *A licensee may process consumers' deidentified information.*

35 (c) *Processing of a consumer's personal information by a*
36 *licensee or third-party service provider shall, at all times, be*
37 *consistent with the consent obtained from the consumer pursuant*
38 *to Section 792.135.*

1 (d) Notwithstanding any other law, a licensee or third-party
2 service provider shall not sell a consumer's personal information
3 for any type of consideration.

4 (e) This section does not prohibit the sharing of a consumer's
5 personal information with a licensee's affiliates to the extent
6 preempted by Section 1681t(b)(1)(H) or Section 1681t(b)(2) of
7 Title 15 of the United States Code.

8 792.130. (a) Once the licensee provides the initial privacy
9 notice pursuant to this article, the licensee may retain a consumer's
10 personal information as necessary for any of the following:

11 (1) Performance of an insurance transaction with a consumer
12 who is in an ongoing business relationship with the licensee.

13 (2) Compliance with a legal obligation related to an insurance
14 transaction involving a consumer's personal information to which
15 the licensee is subject, including state, federal, or international
16 statute of limitation periods applicable to the licensee in connection
17 with a consumer's personal information.

18 (3) Compliance with a request or directive from a law
19 enforcement agency or state, federal, or international regulatory
20 authority, a warrant, subpoena, discovery request, judicial order,
21 or other administrative, criminal, or civil legal process, or another
22 legal requirement that is binding upon a licensee, so long as that
23 law does not interfere with state law, including the Reproductive
24 Privacy Act (Article 2.5 (commencing with Section 123460) of
25 Chapter 2 of Part 2 of Division 106 of the Health and Safety Code).

26 (4) Protection of a legal or beneficial interest in an insurance
27 policy, with respect to a lienholder, mortgagee, assignee, lessor,
28 or other person shown on the records of a licensee as having a
29 legal or beneficial interest in the insurance policy.

30 (5) Exempt research activities related to an insurance
31 transaction involving a consumer's personal information, or for
32 rating or risk management purposes for or on behalf of the licensee
33 in connection with an insurance product or service.

34 (6) Identification of beneficiaries of unclaimed insurance policy
35 benefits.

36 (7) Other purposes that the commissioner specifies in
37 regulation.

38 (b) Not less than annually, a licensee shall review its records
39 containing personal information to determine whether any of the

1 *purposes specified in subdivision (a) permit the continuing*
2 *retention of any consumer's personal information.*

3 *(c) A licensee shall develop a written records retention policy*
4 *and records retention schedule and shall make it available to the*
5 *commissioner upon request. A licensee's policy and schedule*
6 *developed pursuant to this subdivision shall be confidential and*
7 *not subject to requests made pursuant to the California Public*
8 *Records Act (Division 10 (commencing with Section 7920.000) of*
9 *Title 1 of the Government Code). Not less than annually, a licensee*
10 *shall review and update its records retention policy and records*
11 *retention schedule to ensure compliance with this article.*

12 *(d) (1) Once a licensee has determined that a consumer's*
13 *personal information, or a specific element of a consumer's*
14 *personal information, is no longer needed pursuant to subdivision*
15 *(b), the licensee shall destroy or delete the consumer's personal*
16 *information within 90 days after making the determination.*

17 *(2) Subject to the approval of the commissioner, a licensee that*
18 *retains a consumer's personal information on a system or systems*
19 *in which targeted disposal is not possible shall deidentify all*
20 *personal information to the extent possible. If personal information*
21 *cannot be deidentified or deleted, the licensee shall do both of the*
22 *following:*

23 *(A) Develop a written plan, in a manner and form specified by*
24 *the commissioner, that provides for transitioning from the system*
25 *or systems within a reasonable timeframe and the projected date*
26 *for the transition.*

27 *(B) Report to the commissioner regarding the plan developed*
28 *pursuant to subparagraph (A), and report annually thereafter on*
29 *the licensee's progress on implementing its plan pursuant to*
30 *subparagraph (A).*

31 *(3) A licensee's plan developed pursuant to this section shall*
32 *be confidential and not subject to requests made pursuant to the*
33 *California Public Records Act (Division 10 (commencing with*
34 *Section 7920.000) of Title 1 of the Government Code).*

35 *(e) The commissioner may grant to an individual licensee an*
36 *exception to this section for good cause.*

37 *(f) Unless retention of the personal information is otherwise*
38 *required by law, a third-party service provider in possession of a*
39 *consumer's personal information provided by a licensee shall*
40 *delete that information as of the date specified in the contract*

1 *between the licensee and third-party service provider, or upon the*
2 *conclusion of the provision of services, unless the licensee specifies*
3 *an earlier destruction date.*

4 *(g) If a consumer requests a copy of the consumer's personal*
5 *information that has been deleted or deidentified pursuant to this*
6 *article, the licensee shall inform the consumer that the licensee*
7 *and the licensee's third-party service providers in possession of*
8 *the consumer's personal information no longer retain any of the*
9 *consumer's personal information or that the information has been*
10 *deidentified.*

11 *(h) A licensee shall develop written policies and procedures for*
12 *compliance with this section and be able to demonstrate*
13 *compliance with those policies and procedures. These policies and*
14 *procedures may be combined with the policies and procedures*
15 *required by subdivisions (c) and (d).*

16 *(i) This section does not permit or require the deletion of a*
17 *record that is required to be retained by law.*

18 *792.135. (a) The consumer has a right to expect that the*
19 *consumer's personal information shall be processed primarily for*
20 *the purposes of the insurance transaction requested by the*
21 *consumer.*

22 *(b) A licensee or third-party service provider shall not process*
23 *a consumer's personal information in a manner inconsistent with*
24 *the consent provided by the consumer.*

25 *(c) A licensee or third-party service provider shall not process*
26 *a consumer's personal information for a purpose unrelated to the*
27 *insurance transaction, without the prior consent of the consumer.*

28 *(d) A licensee or third-party service provider shall not process*
29 *a consumer's personal information or share a consumer's personal*
30 *information with a person outside of the United States or its*
31 *territories without the prior consent of the consumer. This*
32 *requirement does not apply if the only processing or sharing is*
33 *either of the following:*

34 *(1) In connection with a reinsurance transaction.*

35 *(2) With an affiliate of the licensee.*

36 *(e) Before processing a consumer's personal information for a*
37 *purpose unrelated to the insurance transaction or sharing a*
38 *consumer's personal information with a person outside of the*
39 *United States or its territories, a licensee shall provide a*

1 *reasonable means for a consumer to provide consent, and maintain*
2 *a written record of that consent.*

3 *(1) A licensee shall provide the consumer with a means to*
4 *separately indicate the consumer's consent with respect to use of*
5 *personal information for any of the following reasons:*

6 *(A) Marketing the licensee's products and services.*

7 *(B) Marketing products and services from affiliates of the*
8 *licensee.*

9 *(C) Marketing products and services from unrelated companies.*

10 *(D) Research activities that are unrelated to the consumer's*
11 *insurance transaction.*

12 *(E) Processing the consumer's personal information for any*
13 *other purpose unrelated to the insurance transaction.*

14 *(F) Sharing the consumer's personal information with a person*
15 *who will process it in a jurisdiction outside of the United States*
16 *or its territories.*

17 *(2) If two or more consumers jointly obtain an insurance or*
18 *financial product or service from a licensee, the licensee may*
19 *provide a single consent notice. Each of the joint consumers may*
20 *indicate their own consent.*

21 *(3) When a consumer has a choice to provide prior consent*
22 *pursuant to this article, the form used to obtain the consumer's*
23 *consent shall meet all of the following requirements:*

24 *(A) Be written in plain language.*

25 *(B) Be dated and, if the authorization related to the collection*
26 *of personal information of a consumer with whom the licensee has*
27 *no ongoing relationship pursuant to a claim under the licensee's*
28 *policy, contain a termination date for the consent.*

29 *(C) Specify the persons with whom the consumer's personal or*
30 *privileged information will be shared consistent with the provisions*
31 *of this article.*

32 *(D) Specify the types of personal information the consumer is*
33 *authorizing to be shared.*

34 *(E) Specify the purposes for which the consumer is authorizing*
35 *the processing of the consumer's personal information.*

36 *(F) Name the licensee that the consumer is authorizing to share*
37 *the consumer's personal information.*

38 *(G) Advise the consumer that they are entitled to receive a copy*
39 *of the form containing the consumer's consent.*

1 (H) Explain that, pursuant to this article, the consumer will be
2 protected from retaliation, discrimination, or disparate treatment,
3 based on the consumer's decision to provide or withhold consent.

4 (I) Include additional information or elements specified by the
5 commissioner in regulation.

6 (f) A licensee's processing of personal information shall comply
7 with the consumer's consent as soon as reasonably practicable
8 after the licensee is notified of the consumer's consent.

9 (g) A consumer who has consented to processing of personal
10 information pursuant to this section may revoke their consent. A
11 consumer shall be able to revoke consent in any manner by which
12 the consumer is able to indicate consent. A licensee shall maintain
13 a written record of the revocation.

14 (h) The consumer's most recent consent shall take precedence
15 over any prior consent.

16 (i) A consumer's consent pursuant to this article is effective
17 until it is revoked by the consumer, but consent provided by a
18 consumer with whom a licensee has no ongoing customer
19 relationship shall only be valid for the duration specified on the
20 consent document.

21 (j) If a consumer later establishes a new relationship with the
22 licensee, any consent that applied to the former relationship shall
23 not apply to the new relationship. A new relationship occurs when
24 the consumer who previously ended all business relationships with
25 the licensee reestablishes a business relationship more than 30
26 days after the previous business relationship ended.

27 792.140. (a) A licensee shall provide easily accessible means
28 for consumers to exercise their rights pursuant to this article,
29 including both of the following:

30 (1) A mailing address and toll-free telephone number through
31 which consumers may submit a request.

32 (2) A portion of the licensee's internet website or digital
33 application that permits consumers to exercise their rights pursuant
34 to this article, if the licensee maintains an internet website or
35 digital application.

36 (b) The requirements of this section are met if the licensee
37 provides means for exercising consumer rights that are easy to
38 locate, access, and understand.

39 (c) A licensee shall not require a consumer to take unreasonable
40 steps to exercise the consumer's rights pursuant to this article,

1 *and shall not require a consumer to pay fees or incur costs to*
2 *exercise those rights.*

3 *(d) A licensee shall not use dark patterns or other means*
4 *designed to prevent a consumer from exercising the consumer's*
5 *rights pursuant to this article.*

6 *(e) The commissioner may specify additional requirements*
7 *pertaining to access in regulation.*

8 *792.145. A licensee shall develop, implement, and maintain a*
9 *program of administrative, technical, and physical safeguards*
10 *sufficient to ensure the confidentiality, integrity, and availability*
11 *of nonpublic information in the possession of the licensee.*

12 *792.150. A licensee or third-party service provider shall*
13 *promptly, and in a manner and form specified by the commissioner,*
14 *provide notice to the commissioner of an incident constituting a*
15 *breach, as defined in subdivision (g) of Section 1798.82 of the*
16 *Civil Code. Notice to the commissioner shall comply with Section*
17 *1798.82 of the Civil Code.*

18 *792.155. A licensee that, pursuant to an insurance transaction*
19 *with a consumer, takes title to a device containing personal*
20 *information of the consumer, shall delete the consumer's personal*
21 *information within a reasonable period of time, and shall not*
22 *further process or share personal information obtained in this*
23 *manner. This section does not require the deletion of privileged*
24 *information.*

25 *792.160. (a) A licensee shall provide a clear and conspicuous*
26 *privacy notice to a consumer that describes the licensee's privacy*
27 *practices. The privacy notice shall be provided within a reasonable*
28 *time after the licensee, directly or through a third-party service*
29 *provider, first collects, processes, or shares the consumer's*
30 *personal or publicly available information, except that a privacy*
31 *notice shall not unreasonably be delayed if establishing the*
32 *consumer relationship is not at the consumer's election or upon*
33 *agreement of the consumer in order to expedite the insurance*
34 *transaction. Notwithstanding this requirement, a privacy notice*
35 *shall not be required in any of the following circumstances:*

36 *(1) If a reinsurer, in connection with the provision of*
37 *reinsurance, a third-party service provider, or a surplus line*
38 *insurer, has posted a privacy notice on its internet website.*

39 *(2) To individual plan participants of an employee benefit plan,*
40 *if a privacy notice has been provided to the employer.*

1 (3) *To a beneficiary of a life insurance policy, if the licensee*
2 *does not use the beneficiary's personal information for purposes*
3 *unrelated to the policy for which the person is a beneficiary.*

4 (4) *By an employee, representative, or designee of a licensee,*
5 *who is also a licensee, to the extent that the processing of personal*
6 *information is consistent with the privacy practices of the employer,*
7 *represented, or designator licensee and that licensee provides the*
8 *privacy notice required pursuant to this section.*

9 (b) *A privacy notice meeting the requirements of this article*
10 *shall be provided to a consumer with whom a licensee has an*
11 *ongoing business relationship and whose personal or publicly*
12 *available information has been processed before the effective date*
13 *of this article upon renewal or reinstatement of the consumer's*
14 *policy, or upon the processing of the consumer's information for*
15 *any other purpose, if the consumer has not already been provided*
16 *a privacy notice meeting the requirements of this article.*

17 (c) (1) *A licensee shall provide an updated privacy notice to*
18 *each consumer with whom the licensee has an ongoing business*
19 *relationship when the privacy practices of the licensee change, or*
20 *the substantive content of the preceding privacy notice is no longer*
21 *accurate. The licensee shall do both of the following.*

22 (A) *Conspicuously identify in its updated privacy notice any*
23 *changes in its privacy practices.*

24 (B) *Provide any third-party claimant or beneficiary an updated*
25 *privacy notice if there are changes in the licensee's privacy*
26 *practices during a claim involving the claimant or beneficiary.*

27 (2) *Notwithstanding paragraph (1), a title insurer or title*
28 *producer is not required to provide subsequent privacy notices*
29 *once the initial privacy notice has been provided to the consumer*
30 *if the title insurer or title producer has its privacy notice posted*
31 *on its internet website.*

32 (d) *Each version of a licensee's privacy notice shall contain a*
33 *revision date that shall remain on the privacy notice until the*
34 *licensee revises the privacy notice pursuant to subdivision (c). The*
35 *updated privacy notice shall specify the date the privacy notice*
36 *was revised.*

37 (e) *If the licensee's privacy practices change, the licensee*
38 *remains bound by the terms of the most recent privacy notice it*
39 *has given a consumer, until a revised privacy notice has been*
40 *given.*

1 792.165. (a) A privacy notice required pursuant to Section
2 792.160 shall state in writing all of the following:

3 (1) If personal information has been or may be collected from
4 sources other than the consumer, and if that information is
5 collected by the licensee or by third-party service providers.

6 (2) The categories of the consumer's personal information that
7 the licensee or its third-party service providers have or may
8 process, including examples of the information in each category.

9 (3) The sources that have been used or may be used by the
10 licensee to collect the consumer's personal information.

11 (4) The purposes for which the licensee processes the
12 consumer's personal information.

13 (5) That the licensee and its third-party service providers have
14 not and will not sell the consumer's personal information as that
15 term is defined in this article. However, the licensee and its
16 third-party service providers may share the consumer's personal
17 information for purposes of the insurance transaction, or with the
18 consent of the consumer.

19 (6) The categories of persons with whom the licensee or its
20 third-party service providers have shared, or may share, the
21 consumer's personal information.

22 (7) That the consumer may, upon request, annually obtain a list
23 of persons with whom the licensee or its third-party service
24 providers has shared the consumer's personal information within
25 the last 12 months.

26 (8) That the consumer's prior consent is required for the licensee
27 or its third-party service providers to process the consumer's
28 personal information for any purposes unrelated to the insurance
29 transaction.

30 (9) A statement of the rights of the consumer to access, correct,
31 amend, or delete personal or publicly available information about
32 the consumer, and the instructions for exercising those rights.

33 (10) A statement of the rights of nonretaliation established
34 pursuant to Section 792.195.

35 (11) A statement of the consumer's right to provide consent
36 before the consumer's personal information may be processed in
37 a jurisdiction outside of the United States or its territories.

38 (12) Additional items that the commissioner specifies in
39 regulation.

1 ***(b) If the licensee shares a consumer's personal information***
2 ***for purposes unrelated to the insurance transaction, in addition***
3 ***to the information required by subdivision (a), all of the following***
4 ***information shall be included in the privacy notice:***

5 ***(1) A statement that the consumer may, but is not required to,***
6 ***provide consent to the sharing of the consumer's personal***
7 ***information for purposes unrelated to the insurance transaction.***

8 ***(2) A description of the reasonable means by which consumers***
9 ***may indicate their consent for any one or more of those purposes.***

10 ***(3) That once the consumer consents to the sharing, the***
11 ***consumer may revoke the consent at any time and that the licensee***
12 ***will no longer share the consumer's personal information for those***
13 ***purposes.***

14 ***(c) The obligations imposed by this section upon a licensee may***
15 ***be satisfied by another licensee or third-party service provider***
16 ***authorized to act on its behalf.***

17 792.170. ***(a) In addition to the privacy notice required pursuant***
18 ***to Section 792.160, a licensee shall provide to each consumer with***
19 ***whom the licensee has an ongoing business relationship a privacy***
20 ***rights notice describing the consumer's rights pursuant to this***
21 ***article.***

22 ***(b) The privacy rights notice required pursuant to this section***
23 ***shall do all of the following:***

24 ***(1) Be clear and conspicuous and inform the consumer of the***
25 ***consumer's right to all of the following:***

26 ***(A) Access the consumer's own personal information.***

27 ***(B) Request correction or amendment of inaccurate or***
28 ***incomplete personal information about themselves.***

29 ***(C) Request deletion of personal information that is not needed***
30 ***for completion of the insurance transaction requested by the***
31 ***consumer.***

32 ***(D) Not to have the consumer's personal information used for***
33 ***marketing or research purposes, unless the consumer has provided***
34 ***consent.***

35 ***(E) Be informed that the consumer may consent to the processing***
36 ***of the consumer's personal information by licensees. If the***
37 ***consumer chooses to consent, any use of the consumer's personal***
38 ***information by the licensee shall be limited to the purposes of the***
39 ***consumer's insurance transaction.***

1 (F) Not to have the consumer's personal information collected
2 by a licensee, unless the personal information is necessary for an
3 insurance transaction requested by the consumer.

4 (G) Request additional information about the licensee's privacy
5 practices, including identification of all persons who have received
6 the consumer's personal information within the last three years.

7 (H) Be free from retaliation by the licensee and not incur
8 unreasonable expenses in connection with the consumer's exercise
9 of rights pursuant to this article.

10 (I) Be informed of how to find notice of the licensee's privacy
11 practices on the licensee's internet website.

12 (2) Provide the consumer with information about how to exercise
13 the consumer's rights required pursuant to this article, including
14 contact information for submitting requests pursuant to this article.

15 (3) Be provided to the consumer at least every 12 months.

16 (4) Be provided in addition to other notices required pursuant
17 to this article.

18 (c) The privacy rights notice required pursuant to this section
19 may be combined with other policy documents or communications
20 between the licensee and the consumer if the privacy rights notice
21 content required pursuant to this section remains clear and
22 conspicuous and is readily distinguishable from other information
23 being provided to the consumer.

24 (d) The obligations imposed by this section upon a licensee may
25 be satisfied by another licensee or third-party service provider
26 authorized to act on its behalf.

27 792.175. (a) A licensee shall provide the notices required
28 pursuant to this article so that the licensee reasonably expects a
29 consumer to receive actual notice in writing.

30 (b) A licensee may reasonably expect that a consumer will
31 receive actual notice if the licensee does one of the following:

32 (1) Hand delivers a printed copy of the notice to the consumer.

33 (2) Mails a printed copy of the notice to the address of record
34 of the consumer separately, or in a policy, billing, or other written
35 communication.

36 (3) With respect to a consumer who has agreed to conduct
37 business electronically pursuant to the Uniform Electronic
38 Transactions Act (Title 2.5 (commencing with Section 1633.1) of
39 Part 2 of Division 3 of the Civil Code), and to use the licensee's

1 *internet website or digital application to access insurance products*
2 *and services, either of the following:*

3 *(A) Emails the notice to the consumer's email address of record.*

4 *(B) With respect to the privacy notice required pursuant to*
5 *Section 792.160, emails an initial copy to the consumer's email*
6 *address of record, and posts on its internet website in a clear and*
7 *conspicuous manner its current notices required pursuant to*
8 *Sections 792.160 and 792.170. If the licensee conducts business*
9 *through a digital application, the current notices required pursuant*
10 *to Sections 792.160 and 792.170 shall be easily accessible through*
11 *the digital application.*

12 *(c) A licensee shall not reasonably expect that a consumer will*
13 *receive actual notice of its privacy practices if it does any of the*
14 *following:*

15 *(1) Only posts a sign in its office or generally publishes*
16 *advertisements of its privacy practices.*

17 *(2) Sends the notice electronically to a consumer who has not*
18 *agreed to conduct business electronically with the licensee.*

19 *(3) Provides a notice solely by oral means, either in person, or*
20 *over the telephone or other electronic device.*

21 *(4) Does not provide the notices required pursuant to this article*
22 *so that the consumer is able to retain them or obtain them later in*
23 *writing, either electronically or on paper.*

24 *(d) A licensee may provide a joint notice from the licensee and*
25 *one or more of its affiliates if the notice accurately reflects the*
26 *licensee's and the affiliate's privacy practices with respect to the*
27 *consumer.*

28 *(e) If two or more consumers jointly obtain a product or service*
29 *in connection with an insurance transaction from a licensee, the*
30 *licensee may satisfy the initial and updated notice requirements*
31 *of Sections 792.160 and 792.170 by providing one notice to those*
32 *consumers jointly.*

33 *(f) In addition to providing individual notices to consumers, a*
34 *licensee shall prominently post and make available the notices*
35 *required pursuant to this article on its internet website home page*
36 *if the licensee maintains an internet website. The licensee shall*
37 *design its internet website home page so that all of the following*
38 *are true:*

39 *(1) The notices are clearly and conspicuously available.*

1 (2) *The text or visual cues encourage scrolling down the page,*
2 *if necessary, to view the entire notice and ensure that other*
3 *elements on the internet website home page, such as text, graphics,*
4 *hyperlinks, or sound, do not distract attention from the notice.*

5 (3) *The notice is either of the following:*

6 (A) *Placed on a portion of the internet website home page that*
7 *consumers frequently access.*

8 (B) *Accessible using a clear and conspicuous link in an area*
9 *that consumers frequently access, such as a page on which*
10 *transactions are conducted, that connects directly to the notice*
11 *and is labeled appropriately to convey the importance, nature,*
12 *and relevance of the notice.*

13 (g) *Notices and communications to consumers shall be easy to*
14 *read, understandable to consumers, and avoid technical or legal*
15 *jargon.*

16 (1) *Notices required pursuant to this article shall meet all of*
17 *the following criteria:*

18 (A) *Use a format that makes the notices readable, including on*
19 *smaller screens, if applicable.*

20 (B) *Be available in the languages in which the licensee in its*
21 *ordinary course of business provides contracts, disclaimers, sale*
22 *announcements, and other information to consumers.*

23 (C) *Be accessible to consumers with disabilities. For notices*
24 *provided online, the licensee shall follow current generally*
25 *recognized industry standards, such as the Web Content*
26 *Accessibility Guidelines, version 2.1, from the World Wide Web*
27 *Consortium, or the most recent version. Licensees shall take*
28 *reasonable steps to ensure that consumers with disabilities may*
29 *access the notices in an alternative format.*

30 (2) *For digital applications, licensees shall include their notices*
31 *in a clear and conspicuous manner on the digital application's*
32 *platform page or download page. The notices may also be*
33 *accessible through a link within the application, such as through*
34 *the application's settings menu.*

35 (h) *An address of record is invalid for purposes of this article*
36 *if either of the following is true:*

37 (1) *USPS mail sent to that address by the licensee has been*
38 *returned as undeliverable and subsequent attempts by the licensee*
39 *to obtain a current valid address for the consumer have been*
40 *unsuccessful.*

1 (2) *The consumer's email address in the licensee's records is*
2 *returned as undeliverable and subsequent attempts by the licensee*
3 *to obtain a current valid email address for the consumer have been*
4 *unsuccessful.*

5 792.180. (a) *A consumer may submit a verifiable request to*
6 *a licensee for access to the consumer's personal and publicly*
7 *available information in the possession of the licensee or its*
8 *third-party service providers.*

9 (b) *The licensee or third-party service provider shall do both*
10 *of the following:*

11 (1) *Acknowledge the request submitted pursuant to subdivision*
12 *(a) within five business days from the date the request is received.*

13 (2) *Within 30 business days from the date the request submitted*
14 *pursuant to subdivision (a) is received, do all of the following:*

15 (A) *Disclose to the consumer the identity of those persons to*
16 *whom the licensee or any third-party service provider has shared*
17 *the consumer's personal information within the current year and,*
18 *at a minimum, the three calendar years before the date the*
19 *consumer's request is received.*

20 (B) *Provide the consumer with a copy of the information.*

21 (C) *If the consumer is not the source, identify the source of the*
22 *consumer's personal information provided to the consumer*
23 *pursuant to this subdivision.*

24 (c) *Health information in the possession of a licensee and*
25 *requested pursuant to subdivision (a), together with the identity*
26 *of the source of the information, shall be supplied either directly*
27 *to the consumer or to a health care provider as designated by the*
28 *consumer. If the consumer elects for the licensee to disclose the*
29 *information to a health care provider designated by the consumer,*
30 *the licensee shall notify the consumer, at the time of the disclosure,*
31 *that it has provided the information to the designated health care*
32 *provider.*

33 (d) *The obligations imposed by this section upon a licensee may*
34 *be satisfied by another licensee authorized to act on its behalf.*

35 (e) *The rights granted to a consumer pursuant to this section:*

36 (1) *Shall extend to an individual to the extent that personal or*
37 *publicly available information about the individual is processed*
38 *by a licensee or its third-party service provider.*

39 (2) *Shall not extend to privileged information or personal*
40 *information about the consumer that is processed in connection*

1 with, or is in reasonable anticipation of, a claim or a civil or
2 criminal proceeding involving the consumer, until the claim or
3 proceeding is finalized.

4 (f) A licensee shall provide reasonable means for a consumer
5 to exercise their rights pursuant to this section. A licensee does
6 not provide reasonable means if they are unduly burdensome or
7 require the consumer to incur expenses.

8 (g) For purposes of this section, “third-party service provider”
9 does not include a consumer reporting agency, except to the extent
10 that this section imposes more stringent requirements on a
11 consumer reporting agency than other state or federal laws.

12 792.185. (a) A consumer may submit a verifiable request to
13 a licensee to correct, amend, or delete any personal or publicly
14 available information about the consumer in the possession of the
15 licensee or its third-party service providers.

16 (b) The licensee or third-party service provider shall do both
17 of the following:

18 (1) Acknowledge the request submitted pursuant to subdivision
19 (a) within five business days from the date the request is received.

20 (2) Within 30 business days from the date the request submitted
21 pursuant to subdivision (a) is received, do the following, as
22 appropriate:

23 (A) Correct, amend, or delete the personal or publicly available
24 information in dispute unless the publicly available information
25 was part of a government record that can only be corrected,
26 amended, or deleted upon request by the consumer to the
27 applicable governmental agency.

28 (B) Refuse to make the correction, amendment, or deletion if
29 there is no specific factual basis for correcting, amending, or
30 deleting the personal or publicly available information in question,
31 and provide all of the following information to the consumer:

32 (i) Written notice of the refusal to make the correction,
33 amendment, or deletion.

34 (ii) The basis for the refusal to correct, amend, or delete the
35 information.

36 (iii) The contact information for filing a complaint with the
37 commissioner.

38 (iv) The consumer’s right to file a statement pursuant to
39 subdivision (d).

1 (C) Refuse to make the deletion if it is not permitted by law, and
2 provide all of the following information to the consumer:

- 3 (i) Written notice of the refusal to make the deletion.
- 4 (ii) The basis for the refusal to delete the information.
- 5 (iii) The contact information for filing a complaint with the
6 commissioner.
- 7 (iv) The consumer's right to file a statement pursuant to
8 subdivision (d).

9 (D) If the consumer obtains a correction, amendment, or
10 deletion to a government record that was incorrect, make the
11 correction in its systems within a reasonable time and provide the
12 correction to any third-party service provider with whom the
13 licensee shared the information.

14 (c) (1) A licensee shall not refuse to correct, amend, or delete
15 a consumer's personal information without good cause, which
16 shall be demonstrated to the commissioner upon request.

17 (2) If the licensee corrects, amends, or deletes personal or
18 publicly available information in accordance with this section, the
19 licensee shall notify the consumer in writing and furnish the
20 correction, amendment, or deletion to all of the following:

21 (A) A person specifically designated by the consumer who may
22 have received the personal or publicly available information within
23 the preceding two years.

24 (B) An insurance support organization whose primary source
25 of personal information is insurers, if the insurance support
26 organization has systematically received personal information
27 from the insurer within the preceding five years. The correction,
28 amendment, or deletion does not need to be furnished if the
29 insurance support organization no longer maintains personal
30 information about the consumer.

31 (C) A third-party service provider or insurance support
32 organization that furnished the personal or publicly available
33 information.

34 (d) If a consumer disagrees with the refusal of a licensee to
35 correct, amend, or delete personal or publicly available
36 information, the consumer may file with the licensee a statement
37 setting forth both of the following:

38 (1) The relevant and factual information demonstrating the
39 errors in the information held by the licensee or third-party service
40 provider.

1 (2) *The reasons why the consumer disagrees with the refusal*
2 *of the licensee to correct, amend, or delete the personal or publicly*
3 *available information.*

4 (e) *If a consumer files a statement described in subdivision (d),*
5 *the licensee shall do both of the following:*

6 (1) *Include the statement with the disputed personal or publicly*
7 *available information and provide a copy of the consumer's*
8 *statement to anyone reviewing the disputed personal or publicly*
9 *available information.*

10 (2) *Clearly identify, in a later disclosure of the personal or*
11 *publicly available information that is the subject of disagreement,*
12 *the matter or matters in dispute and include the consumer's*
13 *statement with the personal or publicly available information being*
14 *disclosed.*

15 (f) *The rights granted to a consumer by this section shall not*
16 *extend to personal or publicly available information about the*
17 *consumer that is processed in connection with or in reasonable*
18 *anticipation of a claim or a civil or criminal proceeding involving*
19 *the consumer.*

20 (g) *A licensee shall provide reasonable means for a consumer*
21 *to exercise their rights pursuant to this section. A licensee does*
22 *not provide reasonable means if they are unduly burdensome or*
23 *require the consumer to incur expenses.*

24 (h) *For purposes of this section, "insurance support*
25 *organization" does not include a consumer reporting agency,*
26 *except to the extent that this section imposes more stringent*
27 *requirements on a consumer reporting agency than other state or*
28 *federal law.*

29 792.190. (a) *In the event of an adverse underwriting decision,*
30 *the licensee responsible for the decision shall provide all of the*
31 *following in writing to the consumer at the consumer's address of*
32 *record:*

33 (1) *The specific reason or reasons for the adverse underwriting*
34 *decision.*

35 (2) *The specific items of personal, publicly available, or*
36 *privileged information that support those reasons, including the*
37 *names and addresses of the sources that supplied the information*
38 *resulting in the adverse underwriting decision.*

1 (3) A list identifying with reasonable specificity any systems,
2 processes, policies, or procedures involved in generating
3 information resulting in the adverse underwriting decision.

4 (4) Notwithstanding paragraph (2):

5 (A) A licensee shall not be required to furnish specific privileged
6 information if it has a reasonable suspicion, based upon specific
7 information available for review by the commissioner, that the
8 consumer has engaged in criminal activity, fraud, material
9 misrepresentation, or a material nondisclosure, and the
10 information withheld relates to the suspected criminal activity,
11 fraud, material misrepresentation, or a material nondisclosure.

12 (B) Health information supplied by a health care provider shall
13 be disclosed either directly to the consumer about whom the
14 information relates, or to a health care provider designated by the
15 individual consumer and licensed to provide health care with
16 respect to the condition to which the information relates. The
17 identity of any health care provider shall be disclosed either
18 directly to the consumer or to the health care provider designated
19 by the consumer.

20 (5) A summary of the rights established pursuant to this section
21 and Sections 792.180 and 792.185.

22 (b) A licensee shall not base an adverse underwriting decision
23 on any of the following:

24 (1) Solely the loss history of the previous owner of the property
25 to be insured.

26 (2) Personal information received from a third-party service
27 provider whose primary source of information is licensees, unless
28 the licensee obtains further information independently supporting
29 the adverse underwriting decision.

30 (3) A previous adverse underwriting decision affecting the
31 consumer, unless the licensee bases its underwriting decision on
32 the underlying basis of the previous decision.

33 (4) Information that the consumer inquired about the nature or
34 scope of coverage under a policy and the inquiry did not result in
35 the filing of a claim.

36 (5) The fact that an accident involving a peace officer, member
37 of the Department of the California Highway Patrol, or firefighter
38 has been reported and the licensee retains no liability pursuant to
39 Section 488.5 and subdivision (b) of Section 557.5.

1 (c) *The obligations imposed by this section upon a licensee may*
2 *be satisfied by another licensee authorized to act on its behalf.*

3 (d) *The commissioner may assist a consumer with obtaining*
4 *information about an adverse underwriting decision affecting the*
5 *consumer. The commissioner may request information regarding*
6 *systems, processes, policies, or procedures responsible for*
7 *generating information resulting in the adverse underwriting*
8 *decision. Any information received about systems, processes,*
9 *policies, or procedures shall be received pursuant to Section 12919*
10 *and shall not be subject to the California Public Records Act*
11 *(Division 10 (commencing with Section 7920.000) of Title 1 of the*
12 *Government Code).*

13 (e) *For purposes of this article, the following actions are not*
14 *adverse underwriting decisions, but the licensee responsible for*
15 *taking the action shall provide the consumer with the specific*
16 *reason or reasons for the action in writing:*

17 (1) *The termination of an individual policy form on a classwide*
18 *or statewide basis, except termination of a title insurance policy*
19 *form.*

20 (2) *A denial of insurance coverage solely because the coverage*
21 *is not available on a classwide or statewide basis.*

22 (3) *If requested by a consumer, any other insurer-initiated*
23 *increase in premium on an insurance product purchased by a*
24 *consumer.*

25 792.195. *A licensee or a third-party service provider shall not*
26 *retaliate against a consumer because the consumer exercised or*
27 *attempted to exercise their rights pursuant to this article. A licensee*
28 *or a third-party service provider retaliates against a consumer if*
29 *the licensee or third-party service provider, as a result of a*
30 *consumer's privacy choices, does any of the following:*

31 (a) *Infringes upon a right, or impairs or impedes a benefit or*
32 *protection, that is afforded to consumers under this article.*

33 (b) *Requires the consumer to consent to sharing of the*
34 *consumer's personal information for a purpose unrelated to an*
35 *insurance transaction to obtain a particular product, coverage,*
36 *rate, or service, if the consumer has an option to consent to sharing*
37 *pursuant to this article.*

38 (c) *Imposes a fee or charge for a consumer to exercise the rights*
39 *pursuant to this article.*

1 (d) Charges a different rate or premium to the consumer;
2 provides a different insurance product, refuses to write insurance
3 coverage for the consumer, or denies a claim under an insurance
4 product purchased by the consumer.

5 792.200. (a) A licensee or third-party service provider shall
6 not prepare or request an investigative consumer report about a
7 consumer in connection with an insurance transaction involving
8 an application for insurance, policy renewal, policy reinstatement,
9 or change in insurance benefits unless the licensee or third-party
10 service provider informs the consumer in writing before the report
11 preparation that the consumer:

12 (1) May request to be interviewed in connection with the
13 preparation of the investigative consumer report and the licensee
14 or third-party service provider shall conduct the interview.

15 (2) Is entitled to receive a written copy of the investigative
16 consumer report.

17 (b) If a licensee uses a third-party service provider to obtain
18 an investigative consumer report, the written contract between the
19 licensee and the third-party service provider shall require the
20 third-party service provider to do both of the following:

21 (1) Comply with the requirements of this section.

22 (2) Not use personal information provided to the third-party
23 service provider by the licensee or obtained by the third-party
24 service provider in its investigation of the consumer other than to
25 fulfill the purpose of the contract with the licensee.

26 (c) If a licensee requests that a third-party service provider
27 prepare an investigative consumer report, the licensee shall notify
28 the third-party service provider in writing if a personal interview
29 has been requested by the consumer. The third-party service
30 provider shall conduct the interview requested.

31 (d) A licensee that prepares or requests an investigative
32 consumer report in connection with an insurance claim shall notify
33 the consumer that the consumer may request to be interviewed in
34 connection with the preparation of the investigative consumer
35 report. Neither the licensee nor the third-party service provider
36 is required to provide a copy of an investigative report prepared
37 in connection with an insurance claim, and that contains privileged
38 information, unless compelled to do so by a state or federal court.

39 792.210. (a) To determine if a licensee or third-party service
40 provider has been or is engaged in any conduct in violation of this

1 *article, the commissioner may examine and investigate the affairs*
2 *of a licensee or third-party service provider transacting business*
3 *in this state or transacting business outside this state that has an*
4 *effect on a consumer residing in this state.*

5 *(b) (1) If the commissioner has reason to believe that a licensee*
6 *or third-party service provider has been or is engaged in conduct*
7 *that violates this article, in this state or outside this state that has*
8 *an effect on a consumer residing in this state, the commissioner*
9 *shall issue and serve upon the licensee or third-party service*
10 *provider a statement of charges and notice of hearing to be held*
11 *at a time and place fixed in the notice. The date for the hearing*
12 *shall be not less than 30 days after the date of service.*

13 *(2) At the time and place fixed for the hearing, the licensee or*
14 *third-party service provider charged shall have an opportunity to*
15 *answer the charges against it and present evidence on its behalf.*
16 *Upon good cause shown, the commissioner shall permit any*
17 *adversely affected person to intervene, appear, and be heard at*
18 *the hearing by counsel or in person.*

19 *(3) At a hearing conducted pursuant to this section, the*
20 *commissioner may administer oaths, examine and cross-examine*
21 *witnesses, and receive oral and documentary evidence. The*
22 *commissioner may subpoena witnesses, compel their attendance,*
23 *and require the production of books, papers, records,*
24 *correspondence, and other documents that are relevant to the*
25 *hearing. A stenographic record of the hearing shall be made upon*
26 *the request of a party or at the discretion of the commissioner. If*
27 *a stenographic record is not made and if judicial review is sought,*
28 *the commissioner shall prepare a statement of the evidence for*
29 *use on review. Hearings conducted pursuant to this section shall*
30 *be governed by the same rules of evidence and procedure*
31 *applicable to administrative proceedings conducted pursuant to*
32 *the laws of this state.*

33 *(4) Statements of charges, notice, orders, and other processes*
34 *of the commissioner pursuant to this article may be served by*
35 *anyone duly authorized to act on behalf of the commissioner.*
36 *Service of process may be completed in the manner provided by*
37 *law for service of process in civil actions or by registered mail or*
38 *by a mailing service offered by a third-party mailing service with*
39 *tracking capability. A copy of the statement of charges, notice,*
40 *order, or other process shall be provided to the person or persons*

1 *whose rights pursuant to this article have been allegedly violated.*
2 *A verified return setting forth the manner of service, the return*
3 *postcard receipt in the case of registered mail, or signed receipt*
4 *documentation, shall be sufficient proof of service.*

5 *(5) A third-party service provider transacting business outside*
6 *this state that has an effect on a person residing in this state shall*
7 *be deemed to have appointed the commissioner to accept service*
8 *of process on its behalf, if the commissioner causes a copy of the*
9 *service to be mailed immediately by registered or certified mail,*
10 *or by a mailing service offered by a third-party mailing service*
11 *with tracking capability, to the third-party service provider at its*
12 *last known principal place of business. The return postcard receipt*
13 *or signed receipt documentation for the mailing shall be sufficient*
14 *proof of proper mailing by the commissioner.*

15 *(c) (1) If, after a hearing pursuant to subdivision (b), the*
16 *commissioner determines that the licensee or third-party service*
17 *provider charged has engaged in conduct or practices in violation*
18 *of this article, the commissioner shall reduce the commissioner's*
19 *findings to writing and shall issue and cause to be served upon*
20 *the licensee or third-party service provider a copy of the findings*
21 *and an order requiring the licensee or third-party service provider*
22 *to cease and desist from the conduct or practices constituting a*
23 *violation of this article.*

24 *(2) If, after a hearing pursuant to subdivision (b), the*
25 *commissioner determines that the licensee or third-party service*
26 *provider charged has not engaged in conduct or practices in*
27 *violation of this article, the commissioner shall prepare a written*
28 *report that sets forth findings of fact and conclusions of law. The*
29 *report shall be served upon the licensee or third-party service*
30 *provider charged and upon the person or persons, if any, whose*
31 *rights pursuant to this article were allegedly violated.*

32 *(3) Until the expiration of the time allowed pursuant to this*
33 *article for filing a petition for review or until the petition is actually*
34 *filed, whichever occurs first, the commissioner may modify or set*
35 *aside an order or report issued under this section. If a petition has*
36 *not been duly filed after the expiration of the time allowed for*
37 *filing a petition for review, the commissioner may, after notice*
38 *and opportunity for hearing, alter, modify, or set aside, in whole*
39 *or in part, an order or report issued under this section if conditions*
40 *of fact or law warrant that action or if the public interest requires.*

1 (d) A person subject to an order of the commissioner pursuant
2 to subdivision (c) or a person whose rights pursuant to this article
3 were allegedly violated may obtain a review of an order or report
4 of the commissioner by submitting a filing in a court of competent
5 jurisdiction pursuant to Section 1094.5 of the Code of Civil
6 Procedure within 30 days from the date of the service of the order
7 or report. The court shall have jurisdiction to make and enter a
8 decree modifying, affirming, or reversing an order or report of
9 the commissioner, in whole or in part.

10 (e) An order or report issued by the commissioner pursuant to
11 subdivision (c) shall become final upon either of the following:

12 (1) The expiration of the time allowed for the filing of a petition
13 for review, if a petition has not been duly filed, except that the
14 commissioner may modify or set aside an order or report pursuant
15 to paragraph (3) of subdivision (c).

16 (2) A final decision of the court, if the court directs that the
17 order or report of the commissioner be affirmed or the petition for
18 review dismissed.

19 (f) An order or report of the commissioner pursuant to this
20 article or order of a court to enforce the order shall not relieve or
21 absolve a person affected by the order or report from liability
22 pursuant to the laws of this state.

23 (g) (1) If a hearing pursuant to subdivision (b) results in the
24 finding of a knowing violation of this article, the commissioner
25 may, in addition to the issuance of a cease and desist order
26 pursuant to subdivision (c), order payment of a penalty of at least
27 five thousand dollars (\$5,000) for each violation, not to exceed a
28 penalty of up to one million dollars (\$1,000,000) in the aggregate
29 for multiple violations.

30 (2) A person who violates a cease and desist order of the
31 commissioner issued pursuant to subdivision (c) may, after notice
32 and hearing and upon order of the commissioner, be subject to
33 one or more of the following penalties, at the discretion of the
34 commissioner:

35 (A) A fine of at least twenty-five thousand dollars (\$25,000),
36 but not more than ten million dollars (\$10,000,000) for each
37 violation.

38 (B) A fine of at least fifty thousand dollars (\$50,000) for each
39 violation, if the commissioner finds that violations have occurred
40 with such frequency as to constitute a general business practice.

1 (C) Suspension or revocation of the licensee's license if the
2 licensee knew or reasonably should have known it was in violation
3 of this article.

4 792.215. (a) Any documents, materials, data, or information
5 in the control or possession of the commissioner that are furnished
6 by a licensee or third-party service provider, or an employee or
7 agent thereof acting on behalf of the licensee or third-party service
8 provider, pursuant to this article, or that are obtained by the
9 commissioner in any investigation, or an examination pursuant to
10 this article shall be confidential by law and privileged, shall not
11 be subject to the California Public Records Act (Division 10
12 (commencing with Section 7920.000) of Title 1 of the Government
13 Code), shall not be subject to subpoena, and shall not be subject
14 to discovery or admissible in evidence in a private civil action.
15 This article does not limit the commissioner's authority to use and,
16 if appropriate, to make public, a final or preliminary examination
17 report, examiner or company work papers or other documents, or
18 any other information discovered or developed during the course
19 of any examination in the furtherance of a legal or regulatory
20 action that the commissioner may, in the commissioner's discretion,
21 deem appropriate.

22 (b) The commissioner or a person who receives documents,
23 data, materials, or information while acting pursuant to the
24 authority of the commissioner shall not be permitted or required
25 to testify in a private civil action concerning confidential
26 documents, materials, or information subject to this article.

27 (c) To assist in the performance of the commissioner's duties
28 pursuant to this article, the commissioner:

29 (1) May share documents, data, materials, or information,
30 including the confidential and privileged documents, data,
31 materials, or information subject to this article, with other state,
32 federal, and international regulatory agencies, the National
33 Association of Insurance Commissioners, its affiliates, or
34 subsidiaries, a third-party consultant or vendor, and with state,
35 federal, and international law enforcement authorities, if the
36 recipient agrees in writing to maintain the confidentiality and
37 privileged status of the documents, data, materials, or information.

38 (2) May receive documents, data, materials, or information,
39 including otherwise confidential and privileged documents, data,
40 materials, or information, from the National Association of

1 *Insurance Commissioners, its affiliates, or subsidiaries and from*
2 *regulatory and law enforcement officials of other foreign or*
3 *domestic jurisdictions, and shall maintain as confidential or*
4 *privileged the documents, data, materials, or information received*
5 *with notice or the understanding that it is confidential or privileged*
6 *pursuant to the laws of the jurisdiction that is the source of the*
7 *documents, data, materials, or information.*

8 *(3) Shall enter into a written agreement with a third-party*
9 *consultant or vendor governing sharing and use of documents,*
10 *data, materials, or information provided pursuant to this article,*
11 *consistent with this subdivision that shall do all of the following:*

12 *(A) Specify that the third-party consultant or vendor agrees in*
13 *writing to maintain the confidentiality and privileged status of the*
14 *documents, data, materials, or information subject to this article.*

15 *(B) Specify that the ownership of the documents, data, materials,*
16 *or information shared pursuant to this article with the third-party*
17 *consultant or vendor remains with the commissioner, and the*
18 *third-party consultant's or vendor's use of the information is*
19 *subject to the direction of the commissioner.*

20 *(C) Prohibit the third-party consultant or vendor from retaining*
21 *the documents, data, materials, or information shared pursuant*
22 *to this article after the purposes of the contract have been satisfied.*

23 *(D) Require prompt notice be given to the commissioner if*
24 *confidential documents, data, materials, or information in*
25 *possession of the third-party consultant or vendor pursuant to this*
26 *article is subject to a request or subpoena to the third-party*
27 *consultant or vendor for disclosure or production.*

28 *(E) Require the third-party consultant or vendor to consent to*
29 *intervention by a licensee or third-party service provider in a*
30 *judicial or administrative action in which the third-party consultant*
31 *or vendor may be required to disclose confidential information*
32 *about the licensee or third-party service provider shared with the*
33 *third-party consultant or vendor pursuant to this article.*

34 *(d) A waiver of any applicable privilege or claim of*
35 *confidentiality in the documents, data, materials, or information*
36 *shall not occur due to disclosure to the commissioner pursuant to*
37 *this section or due to sharing as authorized in this article.*

38 *(e) This article does not prohibit the commissioner from*
39 *exercising discretion, pursuant to applicable laws, to release final,*
40 *adjudicated actions that are open to public inspection to a database*

1 *or other clearinghouse service maintained by the National*
2 *Association of Insurance Commissioners, its affiliates, or*
3 *subsidiaries.*

4 792.220. (a) *Notwithstanding any other law, a licensee or*
5 *third-party service provider shall maintain sufficient evidence in*
6 *its records of compliance with this article for the calendar year*
7 *in which the activities governed by this article occurred and the*
8 *three calendar years thereafter.*

9 (b) *A licensee or third-party service provider shall maintain all*
10 *records necessary for compliance with this article, including all*
11 *of the following:*

12 (1) *Records related to the consumer's rights of access,*
13 *correction, and deletion pursuant to this article.*

14 (2) *Copies of any consent executed by a consumer pursuant to*
15 *this article, for as long as the consumer is in a continuing business*
16 *relationship with the licensee.*

17 (3) *Representative samples of a notice required to be provided*
18 *to a consumer pursuant to this article, for as long as the consumer*
19 *is in a continuing business relationship with the licensee.*

20 792.225. (a) *If a licensee or third-party service provider fails*
21 *to comply with Section 792.125, 792.135, 792.140, 792.180,*
22 *792.185, 792.190, or 792.195, with respect to the rights granted*
23 *pursuant to those sections, a person whose rights are violated may*
24 *apply to a court of competent jurisdiction for appropriate equitable*
25 *relief. A licensee or third-party service provider that discloses*
26 *information in violation of Section 792.125 shall be liable for*
27 *damages sustained by the consumer about whom the information*
28 *relates. A consumer is not entitled to a monetary award that*
29 *exceeds the actual damages sustained by the consumer as a result*
30 *of a violation of Sections 792.125 and 792.135.*

31 (b) *In an action brought pursuant to this section, the court may*
32 *award the cost of the action and reasonable attorney's fees to the*
33 *prevailing party.*

34 (c) *Notwithstanding any other law, an action pursuant to this*
35 *section shall be brought within two years from the date the alleged*
36 *violation is or should have been discovered.*

37 (d) *Other than remedies pursuant to this section, a remedy or*
38 *recovery shall not be available to consumers, in law or in equity,*
39 *for occurrences constituting a violation of this article.*

1 792.230. (a) *A cause of action for defamation, invasion of*
2 *privacy, or negligence shall not arise against either of the*
3 *following:*

4 (1) *A person for disclosing personal or privileged information*
5 *in accordance with this article.*

6 (2) *A person for furnishing personal or privileged information*
7 *to a licensee or third-party service provider.*

8 (b) *This section does not provide immunity for disclosing or*
9 *furnishing false information with malice or willful intent to injure*
10 *a person.*

11 792.235. *A person who knowingly and willfully obtains*
12 *information about a consumer from a licensee or third-party*
13 *service provider under false pretenses is guilty of a misdemeanor*
14 *and shall be assessed a fine of up to fifty thousand dollars*
15 *(\$50,000), imprisoned for not more than one year in a county jail,*
16 *or both.*

17 792.240. *The provisions of this article are severable. If any*
18 *provision of this article or its application is held invalid, that*
19 *invalidity shall not affect other provisions or applications that can*
20 *be given effect without the invalid provision or application.*

21 792.245. (a) *This article preempts and supersedes all state*
22 *laws and portions of state laws that are inconsistent with this*
23 *article.*

24 (b) *This article does not preempt or supersede existing federal*
25 *or state law related to protected health information.*

26 (c) *This article does not preempt or supersede the law as*
27 *amended by the California Privacy Rights Act of 2020.*

28 792.250. *The commissioner may issue rules, regulations, and*
29 *orders as the commissioner deems convenient to carry out this*
30 *article. The rules or regulations promulgated pursuant to this*
31 *article shall not be subject to the Administrative Procedure Act*
32 *(Chapter 3.5 (commencing with Section 11340) of Part 1 of*
33 *Division 3 of Title 2 of the Government Code).*

34 792.255. *A licensee has five years from the operative date of*
35 *this article to implement Section 792.130, except that a licensee*
36 *shall comply with subdivision (c) of Section 792.130 on the*
37 *operative date of this article.*

38 SEC. 3. *The Legislature finds and declares that Section 2 of*
39 *this act, which adds Sections 792.115, 792.130, 792.190, and*
40 *792.215 to the Insurance Code, imposes a limitation on the public's*

1 right of access to the meetings of public bodies or the writings of
2 public officials and agencies within the meaning of Section 3 of
3 Article I of the California Constitution. Pursuant to that
4 constitutional provision, the Legislature makes the following
5 findings to demonstrate the interest protected by this limitation
6 and the need for protecting that interest:

7 (a) The documents protected from public disclosure pursuant
8 to this act are not official records of the department. These
9 documents contain confidential and sensitive information related
10 to a licensee or third-party service provider's personal information
11 privacy compliance, internal operations, and proprietary and trade
12 secret information that, if made public, could potentially cause
13 the licensee or third-party service provider competitive harm or
14 disadvantage, or expose a licensee or third-party service provider's
15 personal information practices to malicious external actors.

16 (b) The interests in protecting the internal operations and
17 proprietary and trade secret information of the licensees and
18 third-party services providers, in order to promote consumer
19 choice and competition in the marketplace and prevent malicious
20 actors from exploiting this information, strongly outweigh the
21 public interest in having access to this information, and there are
22 other means to obtain this information, such as a subpoena for
23 the original source of the information.

24 SEC. 4. No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution because
26 the only costs that may be incurred by a local agency or school
27 district will be incurred because this act creates a new crime or
28 infraction, eliminates a crime or infraction, or changes the penalty
29 for a crime or infraction, within the meaning of Section 17556 of
30 the Government Code, or changes the definition of a crime within
31 the meaning of Section 6 of Article XIII B of the California
32 Constitution.

33 SECTION 1. ~~Section 791.07 of the Insurance Code is amended~~
34 ~~to read:~~

35 ~~791.07. (a) An insurance institution, agent, or~~
36 ~~insurance-support organization shall not prepare or request an~~
37 ~~investigative consumer report about an individual in connection~~
38 ~~with an insurance transaction involving an application for~~
39 ~~insurance, a policy renewal, a policy reinstatement, or a change~~

1 in insurance benefits, unless the insurance institution or agent
2 informs the individual of both of the following:

3 (1) That the individual may request to be interviewed in
4 connection with the preparation of the investigative consumer
5 report.

6 (2) That upon a request pursuant to Section 791.08, the
7 individual is entitled to receive a copy of the investigative
8 consumer report.

9 (b) If an investigative consumer report is to be prepared by an
10 insurance institution or agent, the insurance institution or agent
11 shall institute reasonable procedures to conduct a personal
12 interview requested by an individual.

13 (c) If an investigative consumer report is to be prepared by an
14 insurance-support organization, the insurance institution or agent
15 desiring the report shall inform the insurance-support organization
16 if a personal interview has been requested by the individual. The
17 insurance-support organization shall institute reasonable procedures
18 to conduct an interview, if requested.