

AMENDED IN SENATE MAY 23, 2025

AMENDED IN SENATE MAY 1, 2025

AMENDED IN SENATE APRIL 3, 2025

AMENDED IN SENATE MARCH 18, 2025

## **SENATE BILL**

**No. 354**

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**Introduced by Senator Limón**

February 12, 2025

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An act to 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 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 require a licensee or third-party service provider to obtain a consumer's consent to take specified actions, and would set forth the means by which consent is obtained. 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 in a county jail for up to ~~six~~ 6 months, 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.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: 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 “inalienable”  
5 rights of all people. Voters acted in response to the accelerating  
6 encroachment on personal freedom and security caused by  
7 increased data collection and usage in contemporary society. The  
8 amendment established a legal and enforceable constitutional right  
9 of privacy for every Californian. Fundamental to this right of  
10 privacy is the ability of individuals to control the use, including  
11 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  
16 Legislature enacted the CCPA into law. The CCPA gives California  
17 consumers the right to learn what information a business has  
18 collected about them, to delete their personal information, to stop  
19 businesses from selling their personal information, including using  
20 it to target them with advertisements that follow them as they

1 browse the internet from one internet website to another, and to  
2 hold businesses accountable if they do not take reasonable steps  
3 to safeguard their personal information.

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

13 (4) Despite the mention of insurance business in Proposition  
14 24, California's insurance privacy laws, last adopted in 1980 and  
15 2002, continue to be decades out of date and lag behind the broadly  
16 applicable privacy laws. These legacy laws are not suited to protect  
17 insurance consumers, given the data-intensive nature of the  
18 insurance business, and the increasingly complex manner in which  
19 insurance businesses collect and use information about consumers.

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

35 (6) The absence of effective oversight leaves consumers  
36 vulnerable. Currently, consumers are presented with privacy notices  
37 that are confusing and uninformative, and may also be subject to  
38 the overcollection of their personal information, proliferation of  
39 that information to recipients not contemplated by the consumer,  
40 unwanted marketing contacts, fraud arising from data breaches,

1 underwriting based on data that is stale or unrepresentative, or  
2 retaliation for exercising privacy rights, among other risks.

3 (b) It is the intent of the Legislature that this act addresses the  
4 gaps in consumer protections and gives the Insurance  
5 Commissioner and the Department of Insurance powerful tools to  
6 protect consumer privacy, as follows:

7 (1) Data minimization: ensures that licensees are only collecting  
8 personal information related to the insurance transaction requested  
9 by the consumer.

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

12 (3) Oversight of third-party service provider arrangements:  
13 ensures that contractual arrangements between licensees and  
14 vendors provide for the security of consumers' personal  
15 information, and that the information will only be used for the  
16 service provided by the licensee.

17 (4) Opt in: ensures that consumers' personal information will  
18 primarily be used to provide the insurance product requested by  
19 the consumer, and will not be used for other purposes without the  
20 express consent of the consumer.

21 (5) Limitation on sensitive personal information: ensures that  
22 consumers' sensitive personal information will only be used to  
23 provide the insurance product requested by the consumer.

24 (6) Notices to consumers: includes reasonable notice  
25 requirements to provide consumers with meaningful information  
26 about what information is collected, how it is used, to whom it is  
27 disclosed, and what rights the consumer has under the law.

28 (7) Transparency: ensures that consumers have the opportunity  
29 to control the use of their personal information for purposes other  
30 than the insurance transaction.

31 (8) Governance processes and procedures on data use: ensures  
32 that licensees establish and follow protocols to protect consumers'  
33 personal information and provide data breach notifications.

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

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

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

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

5  
6 Article 6.65. Insurance Consumer Privacy Protection Act of  
7 2025  
8

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

17 (a) Protect consumers’ personal information processed by  
18 licensees or their third-party service providers.

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

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

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

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

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

32 (g) Require data minimization practices for all licensees and  
33 their third-party service providers in the processing of consumers’  
34 personal information.

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

38 792.100. (a) On and after the operative date of this article, the  
39 obligations imposed by this article shall apply to a licensee and

1 the licensee's third-party service providers that do any of the  
2 following:

3 (1) Process consumers' personal information in connection with  
4 the business of insurance.

5 (2) Engage in insurance transactions with consumers.

6 (3) Engage in activities not related to insurance transactions  
7 involving consumers' personal information.

8 (b) The obligations imposed by this article shall not apply to  
9 depository institutions or affiliates of depository institutions that  
10 are subject to the Gramm-Leach-Bliley Act (Subchapter I  
11 (commencing with Section 6801) of Chapter 94 of Title 15 of the  
12 United States Code), unless the affiliates are licensees for purposes  
13 of this article.

14 (c) (1) *The obligations imposed by this article shall not apply*  
15 *to a provider of health care governed by the Confidentiality of*  
16 *Medical Information Act (Part 2.6 (commencing with Section 56)*  
17 *of Division 1 of the Civil Code) or a covered entity or business*  
18 *associate governed by the privacy, security, and breach notification*  
19 *rules issued by the United States Department of Health and Human*  
20 *Services, Parts 160 and 164 of Title 45 of the Code of Federal*  
21 *Regulations, established pursuant to the Health Insurance*  
22 *Portability and Accountability Act of 1996 (Public Law 104-191).*

23 (2) *A "third-party service provider" does not include a provider*  
24 *of health care governed by the Confidentiality of Medical*  
25 *Information Act (Part 2.6 (commencing with Section 56) of Division*  
26 *1 of the Civil Code) or a covered entity or business associate*  
27 *governed by the privacy, security, and breach notification rules*  
28 *issued by the United States Department of Health and Human*  
29 *Services, Parts 160 and 164 of Title 45 of the Code of Federal*  
30 *Regulations, established pursuant to the Health Insurance*  
31 *Portability and Accountability Act of 1996 (Public Law 104-191).*

32 (3) *For purposes of this subdivision, "medical information"*  
33 *and "provider of health care" have the same meanings as defined*  
34 *in Section 56.05 of the Civil Code, and "business associate,"*  
35 *"covered entity," and "protected health information" have the*  
36 *same meanings as defined in Section 160.103 of Title 45 of the*  
37 *Code of Federal Regulations.*

38 (4) *Notwithstanding paragraphs (1) and (2), this article applies*  
39 *to a disability insurer licensed pursuant to Section 106 that is not*  
40 *regulated as a health care service plan pursuant to the Knox-Keene*

1 *Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing*  
2 *with Section 1340) of Division 2 of the Health and Safety Code).*

3 792.105. The protections of this article shall extend to a  
4 consumer who meets any of the following criteria:

5 (a) Whose personal information is processed in connection with  
6 an insurance transaction.

7 (b) Who has previously engaged in insurance transactions with  
8 a licensee or third-party service provider involving the consumers'  
9 personal information.

10 (c) Whose personal information is used for purposes other than  
11 insurance transactions by licensees and third-party service  
12 providers.

13 792.110. For purposes of this article:

14 (a) "Address of record" means either of the following:

15 (1) A consumer's last known United States Postal Service  
16 (USPS) mailing address shown in the licensee's records.

17 (2) A consumer's last known email address as shown in the  
18 licensee's records, if the consumer has consented to conducting  
19 business electronically pursuant to Title 2.5 (commencing with  
20 Section 1633.1) of Part 2 of Division 3 of the Civil Code.

21 (b) "Adverse underwriting decision" means any of the following  
22 actions by a licensee or producer in the business of insurance:

23 (1) A denial, in whole or in part, of insurance coverage requested  
24 by a consumer, including a reduction in coverage limits or scope  
25 of coverage.

26 (2) A termination of insurance coverage for reasons other than  
27 nonpayment of premium or, for title insurance coverage, for reasons  
28 other than transfer of title to the insured property or satisfaction  
29 or release of the insured lien interest.

30 (3) A rescission of the insurance policy.

31 (4) Refusing to renew an existing insurance policy or offering  
32 to renew an existing insurance policy at higher than standard rates.

33 (5) Any of the following for property or casualty insurance  
34 coverage:

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

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

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



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

3 (c) “Affiliate” or “affiliated” means a person that directly, or  
4 indirectly through one or more intermediaries, controls, is  
5 controlled by, or is under common control with another person.  
6 For purposes of this definition, “control” means any of the  
7 following:

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

12 (2) Control over the election of a majority of the directors,  
13 trustees, or general partners of the company, or individuals  
14 exercising similar functions of the company.

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

18 (d) “Aggregated consumer information” means information that  
19 relates to a group or category of consumers, that is deidentified,  
20 and that is not linked or reasonably linkable to a consumer,  
21 household, or specific electronic device.

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

25 (f) “Biometric information” means an individual’s physiological,  
26 biological, or behavioral characteristics that can be used, singly  
27 or in combination with other identifying information, to establish  
28 a consumer’s identity. Biometric information may include an iris  
29 or retina scan, fingerprint, face, hand, palm, ear, vein pattern, and  
30 voiceprint, from which an identifier template, such as a faceprint,  
31 a minutiae template, or a voiceprint, can be extracted, and keystroke  
32 patterns or rhythms, gait patterns or rhythms, or any other means  
33 to identify an individual.

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

37 (h) “Collect” or “collecting” means buying, renting, gathering,  
38 obtaining, receiving, or accessing a consumer’s personal  
39 information.

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

(j) “Consent” means a freely given, specific, informed, and unambiguous indication of the consumer’s wishes by which the consumer, or the consumer’s legal guardian, a person who has power of attorney, or a person acting as a conservator for the consumer, including by a statement or by a clear affirmative action, signifies agreement to the processing of personal information relating to the consumer for a narrowly defined particular purpose.

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

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

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

(l) “Consumer report” has the same meaning as defined in Section 603(d) of the federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681a(d)).

(m) “Consumer reporting agency” has the same meaning as defined in Section 603(f) of the federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681a(f)).

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

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

1 (1) Has implemented technical safeguards designed to prohibit  
2 reidentification of the consumer to whom the information may  
3 pertain.

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

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

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

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

10 (6) Other requirements pertaining to deidentification that the  
11 commissioner specifies in regulation.

12 (p) “Delete” and “deleted” means to remove or destroy personal  
13 information by permanently erasing the personal information on  
14 existing systems so that it is not maintained in human or  
15 machine-readable form and cannot be retrieved or utilized in that  
16 form.

17 (q) “Digital application” means an application that a consumer  
18 accesses and manipulates using a specialized electronic device,  
19 computer, mobile device, tablet, or other device with a display  
20 screen, including any add-ons or additional content for that  
21 application.

22 (r) “Financial product or service” means a product or service  
23 that a financial holding company could offer by engaging in an  
24 activity that is financial in nature or incidental to that financial  
25 activity pursuant to Section 4(k) of the federal Bank Holding  
26 Company Act of 1956 (12 U.S.C. Sec. 1843(k)). “Financial  
27 service” includes a financial institution’s evaluation or brokerage  
28 of information that the financial institution collects in connection  
29 with a request or an application from a consumer for a financial  
30 product or service.

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

33 (A) An individual’s genetic tests.

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

35 (C) The manifestation of a disease or disorder in family members  
36 of an individual.

37 (D) A request for, or receipt of, genetic services, or participation  
38 in clinical research that includes genetic services, by an individual  
39 or a family member of the individual.

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

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

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

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

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

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

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

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

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

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

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

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

(2) The genetic information of an individual.

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

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

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

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

4 (B) The processing of personal information from licensees or  
5 other insurance support organizations to detect or prevent insurance  
6 fraud and insurance crime, material misrepresentation, or material  
7 nondisclosure in connection with the business of insurance.

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

11 (2) “Insurance support organization” does not include producers,  
12 government institutions, insurers, health care providers, reinsurers,  
13 and third-party service providers. However, “insurance support  
14 organizations” shall otherwise be subject to the requirements  
15 pertaining to third-party service providers pursuant to this article.

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

19 (A) The underwriting or the determination of a consumer’s  
20 eligibility for or the amount of insurance coverage, rate, benefit,  
21 payment, or claim settlement.

22 (B) Licensees or third-party service providers performing  
23 services, including maintaining or servicing accounts, providing  
24 customer service, processing requests or transactions, verifying  
25 customer information, processing payments, providing financing,  
26 providing analytic services, providing storage, or any similar  
27 services.

28 (C) Provision of “value-added services or benefits” in connection  
29 with the business of insurance.

30 (D) Processing of personal information using algorithmic or  
31 automated decisionmaking means.

32 (E) An actuarial study related to rating, risk management, or  
33 exempt research activities conducted by or for the benefit of the  
34 licensee using consumers’ personal information.

35 (F) The short-term, transient use of a consumer’s personal  
36 information in connection with the consumer’s current interaction  
37 with the licensee, including nonpersonalized advertising shown  
38 as part of a consumer’s current interaction with the licensee, if the  
39 consumer’s personal information is not otherwise shared or sold  
40 and is not used to build a profile about the consumer or otherwise

1 alter the consumer's experience outside the current interaction  
2 with the licensee.

3 (G) Detection or prevention of insurance fraud, crime related  
4 to insurance claims, material misrepresentation, or material  
5 nondisclosure.

6 (H) Providing personal information to statistical agents,  
7 reinsurers, or insurance support organizations, provided that the  
8 personal information is only used for the purposes for which it is  
9 shared.

10 (2) "Insurance transaction" does not include processing related  
11 to marketing or research.

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

13 (A) A corporation, association, or partnership required to be  
14 licensed by the commissioner to assume risk or otherwise  
15 authorized to assume risk, including a ~~nonprofit hospital, medical,~~  
16 ~~or health care service organization, health maintenance~~  
17 ~~organization~~, reciprocal exchange, interinsurer, fraternal benefit  
18 society, or multiple-employer welfare arrangement.

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

21 (C) A preferred provider organization administrator.

22 (2) "Insurer" does not include producers, insurance support  
23 organizations, foreign-domiciled risk retention groups, reinsurers,  
24 or surplus line insurers.

25 (z) "Investigative consumer report" means a consumer report  
26 or portion of a consumer report in which information about an  
27 individual's character, general reputation, personal characteristics,  
28 or mode of living is obtained through personal interviews with the  
29 individual's neighbors, friends, associates, acquaintances, or others  
30 who may have knowledge concerning that information. However,  
31 that information does not include specific factual information on  
32 a consumer's credit record obtained directly from a creditor of the  
33 consumer or from a consumer reporting agency when the  
34 information was obtained directly from a creditor of the consumer  
35 or from the consumer.

36 (aa) (1) "Licensee" means a person licensed, authorized to  
37 operate, or registered, or required to be licensed, authorized, or  
38 registered pursuant to this code, including all of the following:

39 (A) An insurer.

40 (B) A producer.

1 (C) A surplus line insurer.

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

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

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

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

13 (ad) “Person” means an individual, corporation, association,  
14 partnership, or other legal entity. “Person” does not include a  
15 governmental entity.

16 (ae) “Personal information” means information processed in  
17 the business of insurance that identifies, relates to, describes, is  
18 reasonably capable of being associated with, or could reasonably  
19 be linked, directly or indirectly, with a particular consumer or  
20 household.

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

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

29 (B) Personal information described in subdivision (e) of Section  
30 1798.80 of the Civil Code.

31 (C) Characteristics of protected classifications pursuant to state  
32 or federal law.

33 (D) Commercial information, including records of personal  
34 property, products or services purchased, obtained, or considered,  
35 or other purchasing or consuming histories or tendencies.

36 (E) Biometric information.

37 (F) Internet or other electronic network activity information,  
38 including browsing history, search history, and information  
39 regarding a consumer’s interaction with an internet website  
40 application or advertisement.

1 (G) Geolocation data.

2 (H) Auditory, electronic, visual, thermal, olfactory, or other  
3 sensory information.

4 (I) Professional or employment-related information.

5 (J) Education information that is not publicly available,  
6 personally identifiable information as defined in the Family  
7 Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g) and  
8 related regulations (Part 99 (commencing with Section 99.1) of  
9 Title 34 of the Code of Federal Regulations).

10 (K) Inferences drawn from any of the information identified in  
11 this paragraph to create a profile about a consumer reflecting the  
12 consumer's preferences, characteristics, character, habits,  
13 avocations, finances, occupation, general reputation, credit, health,  
14 psychological trends, predispositions, behavior, attitudes,  
15 intelligence, abilities, and aptitudes.

16 (L) Sensitive personal information.

17 (2) "Personal information" does not include publicly available  
18 information or lawfully obtained, truthful information that is a  
19 matter of public concern.

20 (A) For purposes of this paragraph, "publicly available" means  
21 any of the following:

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

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

28 (iii) Information made available by a person to whom the  
29 consumer has disclosed the information if the consumer has not  
30 restricted the information to a specific audience.

31 (iv) *Records evidencing interest in real property that have been*  
32 *accurately transcribed from a county recorder's records into a*  
33 *title plant owned by an insurer licensed to transact title insurance,*  
34 *as defined in Section 104.*

35 (B) "Publicly available" does not mean biometric information  
36 collected about a consumer without the consumer's knowledge.

37 (3) "Personal information" can exist in various formats,  
38 including all of the following:

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



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

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

5 (4) “Personal information” does not include aggregated  
6 consumer information, deidentified information, or publicly  
7 available information.

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

13 (ag) “Privileged information” means personal information that  
14 is collected in connection with or in reasonable anticipation of a  
15 claim for insurance benefits or a civil or criminal proceeding  
16 involving a consumer, until the claim or proceeding is finalized.  
17 However, information that otherwise meets the requirements of  
18 this article shall nevertheless be considered “personal information”  
19 if it is disclosed in violation of this article.

20 (ah) To “process,” “processing,” or a “process” means an  
21 operation or set of operations performed by a licensee, reinsurer,  
22 surplus line insurer, or third-party service provider, by manual or  
23 automated means, on the personal information or sets of personal  
24 information of a consumer, including the collection, use, sharing,  
25 storage, disclosure, analysis, deletion, retention, or modification  
26 of personal information.

27 (ai) “Producer” means a person licensed pursuant to Chapter 5  
28 (commencing with Section 1621), Chapter 5A (commencing with  
29 Section 1759), Chapter 6 (commencing with Section 1760), Chapter  
30 7 (commencing with Section 1800), or Chapter 8 (commencing  
31 with Section 1831).

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

35 (1) Federal, state, or local government records.

36 (2) Widely distributed media.

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

39 (ak) “Reinsurer” means a legal entity primarily engaged in  
40 assuming all or part of the risk associated with existing insurance

1 policies originally underwritten by insurers, or a legal entity known  
2 as a retrocessionaire that accepts all or part of one or more  
3 reinsurance policies issued by a reinsurer.

4 (al) “Research activities” means systemic investigation,  
5 including development, testing, and evaluation, designed to develop  
6 or contribute to generalizable knowledge if there is sharing of  
7 personal information with nonaffiliated third parties. “Research  
8 activities” does not mean any of the following if part of an  
9 insurance transaction:

10 (1) Relating to rating or risk management.

11 (2) For actuarial studies.

12 (3) Disclosure to an insurance support organization.

13 (4) Subject to a research university internal review board or  
14 privacy board approval that requires use of a process that follows  
15 confidentiality best practices and if a contract agreeing to that  
16 protection has been executed.

17 (am) “Residual market mechanism” means the California FAIR  
18 Plan Association established pursuant to Chapter 9 (commencing  
19 with Section 10090) of Part 1 of Division 2, the assigned risk plan  
20 established pursuant to Chapter 1 (commencing with Section  
21 11550) of Part 3 of Division 2, and the State Compensation  
22 Insurance Fund established pursuant to Chapter 4 (commencing  
23 with Section 11770) of Part 3 of Division 2.

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

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

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

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

37 (3) Providing information to an affiliate.

38 (4) Transferring personal information to a third party as an asset  
39 pursuant to a merger, acquisition, bankruptcy, or other transaction,  
40 or a proposed merger, acquisition, bankruptcy, or other transaction

1 in which the party assumes control of all or part of the licensee's  
2 assets.

3 (5) Disclosure pursuant to a consumer's direction to the licensee  
4 to disclose personal information to, or interact with, one or more  
5 licensees or other financial institutions.

6 (ap) "Sensitive personal information" means personal  
7 information, including all of the following, of a consumer:

8 (1) Social security, driver's license, state identification card, or  
9 passport number.

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

13 (3) Precise geolocation.

14 (4) Racial or ethnic origin, citizenship or immigration status,  
15 religious or philosophical beliefs, or union membership.

16 (5) Content of personal mail, personal email, personal text  
17 messages, or personal voice or video communications, unless the  
18 person in possession is the intended recipient of the  
19 communication.

20 (6) Genetic or neural data.

21 (7) Information about the consumer's sex life or sexual  
22 orientation.

23 (8) Health information.

24 (9) Biometric information.

25 (10) Additional items specified by the commissioner in  
26 regulation.

27 (aq) (1) "Share," "shared," or "sharing" means sharing, renting,  
28 releasing, disclosing, disseminating, making available, transferring,  
29 or otherwise communicating orally, in writing, or by electronic or  
30 other means, a consumer's personal information by a licensee or  
31 third-party service provider to a third party, whether or not for  
32 monetary or other valuable consideration, including transactions  
33 between a licensee or third-party service provider and a third party  
34 for the benefit of any person, in which no money is exchanged.

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

37 (A) A consumer uses or directs the licensee or third-party service  
38 provider to intentionally disclose personal information or  
39 intentionally interact with one or more third parties.

1 (B) The licensee or third-party service provider uses or shares  
2 an identifier for a consumer who has opted out of the sharing of  
3 the consumer's personal information or limited the use of the  
4 consumer's sensitive personal information for the purposes of  
5 alerting persons that the consumer has opted out of the sharing of  
6 the consumer's personal information or limited the use of the  
7 consumer's sensitive personal information.

8 (C) The licensee or third-party service provider transfers to a  
9 third party the personal information of a consumer as an asset that  
10 is part of a merger, acquisition, bankruptcy, or other transaction  
11 in which the third party assumes control of all or part of the  
12 business, if that information is used or shared consistently with  
13 this article. If a third party materially alters how it uses or shares  
14 the personal information of a consumer in a manner that is  
15 materially inconsistent with the promises made at the time of  
16 collection, it shall provide prior notice of the new or changed  
17 practice to the consumer. The notice shall be sufficiently prominent  
18 and robust to ensure that existing consumers can easily exercise  
19 their consent consistently with this article. This subparagraph does  
20 not authorize a person to make material, retroactive privacy policy  
21 changes or make other changes to a privacy policy in a manner  
22 that would violate the Unfair Practices Act (Chapter 4  
23 (commencing with Section 17000) of Part 2 of Division 7 of the  
24 Business and Professions Code).

25 (ar) "Statistical agent" means an entity that has been designated  
26 by the commissioner to collect statistics from licensees and provide  
27 reports developed from those statistics to the commissioner for  
28 the purpose of fulfilling the statistical reporting obligations of  
29 those licensees.

30 (as) "Surplus line insurer" means a nonadmitted insurer that  
31 accepts business placed through a licensed surplus line broker  
32 pursuant to Chapter 6 (commencing with Section 1760).

33 (at) "Termination of insurance coverage" or "termination of an  
34 insurance policy" means either a cancellation or nonrenewal of an  
35 insurance policy, in whole or in part, for any reason other than  
36 failing to pay a premium as required by the policy.

37 (au) "Third-party service provider" means a person, including  
38 directors, officers, employees, and agents thereof, that contracts  
39 with a licensee that provides services to the licensee, and processes,  
40 shares, or otherwise is permitted access to personal information

1 through its provision of services to the licensee. “Third-party  
2 service provider” includes insurance support organizations and a  
3 person with whom a licensee does not have a continuing business  
4 relationship and does not have a contract, but may have to share  
5 personal or publicly available information in connection with an  
6 insurance transaction pursuant to subdivision (c) of Section  
7 792.115. “Third-party service provider” does not include  
8 governmental entities, licensees, affiliates of licensees, or  
9 reinsurers.

10 (av) “Value-added service or benefit” means a product or service  
11 that meets both of the following criteria:

12 (1) Relates to insurance coverage applied for or purchased by  
13 a consumer.

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

15 (A) Provide loss mitigation or loss control services or products  
16 designed to mitigate risks related to the insurance requested by or  
17 offered to a consumer.

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

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

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

23 (E) Enhance the health of the consumer, including care  
24 coordination.

25 (F) Enhance financial wellness of the consumer through  
26 education or financial planning services.

27 (G) Provide post-loss services.

28 (H) Incentivize behavioral changes to improve the health or  
29 reduce the risk of death or disability of a policyholder, potential  
30 policyholder, certificate holder, potential certificate holder, insured,  
31 potential insured, or applicant.

32 (I) Assist in the administration of employee or retiree benefit  
33 insurance coverage.

34 (aw) “Verifiable request” means a request that the licensee can  
35 reasonably verify, using commercially reasonable methods, made  
36 by the consumer whose personal information is the subject of the  
37 request or by a person authorized by the consumer to act on the  
38 consumer’s behalf.

39 (ax) “Written” or “in writing” includes a writing, including  
40 electronic communications subject to the Uniform Electronic

1 Transactions Act (Title 2.5 (commencing with Section 1633.1) of  
2 Part 2 of Division 3 of the Civil Code).

3 792.115. (a) A licensee shall exercise due diligence in selecting  
4 and overseeing its third-party service providers. A licensee shall  
5 develop written procedures for the selection and oversight of  
6 third-party service providers and shall make them available to the  
7 commissioner upon request. A licensee's procedures developed  
8 pursuant to this section shall be confidential and not subject to  
9 public disclosure requests made pursuant to the California Public  
10 Records Act (Division 10 (commencing with Section 7920.000)  
11 of Title 1 of the Government Code).

12 (b) A contract between a licensee and a third-party service  
13 provider shall govern the processing of personal information  
14 performed on behalf of the licensee. The contract shall contain  
15 clear instructions for processing personal information, the nature  
16 and purpose of processing, the types of personal information  
17 subject to processing, the duration of processing, and the rights  
18 and obligations of both parties. The contract shall also include  
19 requirements that the third-party service provider shall do all of  
20 the following:

21 (1) Ensure that each person processing personal information is  
22 subject to a duty of confidentiality with respect to the personal  
23 information, and only uses the personal information for legitimate  
24 duties as assigned.

25 (2) Develop and maintain a program of administrative, technical,  
26 and physical safeguards sufficient to ensure the confidentiality,  
27 integrity, and availability of personal information provided by the  
28 licensee.

29 (3) Promptly report to the licensee and the commissioner any  
30 incident affecting the confidentiality, integrity, or availability of  
31 personal information, including an event constituting a breach  
32 pursuant to subdivision (g) of Section 1798.82 the Civil Code.

33 (4) Unless retention of the personal information is otherwise  
34 required by law, delete the personal information as of the date  
35 specified in the contract between the licensee and third-party  
36 service provider, or upon the conclusion of the provision of  
37 services, unless the licensee specifies an earlier destruction date.

38 (5) Upon the reasonable request of the licensee, make available  
39 to the licensee all information in its possession necessary to

1 demonstrate the third-party service provider's compliance with  
2 this article.

3 (6) Provide reasonable assistance to the commissioner with  
4 respect to an investigation or proceeding pursuant to this code, or  
5 to the licensee with respect to a consumer request pursuant to this  
6 article.

7 (7) Engage a subcontractor pursuant to a written contract that  
8 requires the subcontractor to comply with the same obligations as  
9 the third-party service provider with respect to the personal  
10 information.

11 (8) Not further process or disclose the personal information  
12 obtained from or on behalf of the licensee other than as specifically  
13 stated in the contract.

14 (9) Promptly notify the licensee if the third-party service  
15 provider is no longer able to comply with its obligations under the  
16 contract, in which case the licensee has the right to terminate the  
17 contract.

18 (c) Notwithstanding subdivision (b), in connection with an  
19 insurance transaction, a licensee may share a consumer's personal  
20 information with a third-party service provider with whom the  
21 licensee has no ongoing business relationship and with whom the  
22 licensee has no written contract with the consent of the consumer  
23 and only to the extent necessary to provide the temporary service  
24 requested by the licensee on behalf of the consumer.

25 (d) The section applies to a contract between a licensee and a  
26 third-party service provider that is executed, amended, or renewed  
27 after the effective date of this article. If a licensee has an in-force  
28 contract with a third-party service provider that collects, processes,  
29 retains, or shares any consumer's personal information, and the  
30 contract has not been renewed after the effective date of this article,  
31 the licensee shall notify the third-party service provider of the  
32 requirements of this article.

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

36 792.120. (a) A licensee shall not process a consumer's personal  
37 information unless both of the following are true:

38 (1) The collection, processing, retention, or sharing of the  
39 consumer's personal information is consistent with and complies

1 with the most recent privacy notice provided to the consumer by  
2 the licensee.

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

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

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

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

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

17 (2) The processing of the consumer's personal information is  
18 consistent with and complies with the most recent privacy notice  
19 provided by the reinsurer, third-party service provider, or surplus  
20 line insurer on its internet website.

21 (3) With respect to reinsurers, the processing of the consumer's  
22 personal information is reasonably necessary and proportionate to  
23 achieve the purposes related to the reinsurance transaction and not  
24 further processed in a manner that is incompatible with those  
25 purposes.

26 (4) With respect to third-party service providers and surplus  
27 line insurers, the processing of the consumer's personal information  
28 is reasonably necessary and proportionate to achieve the purposes  
29 related to the purposes for which the third-party service provider  
30 or surplus line insurer collected the information and not further  
31 processed in a manner that is incompatible with those purposes.

32 (e) Other than pursuant to a contract with a licensee pursuant  
33 to Section 792.115, a reinsurer, third-party service provider, or  
34 surplus line insurer shall not process a consumer's personal  
35 information obtained in the business of insurance for a purpose  
36 unrelated to an insurance transaction.

37 (f) An affiliate that processes information received from, or on  
38 behalf of, a licensee shall be subject to the same requirements  
39 under this article as are applicable to the licensee.



1     792.125. (a) Consistent with this article, a licensee may process  
2 a consumer's personal information as necessary for all of the  
3 following purposes:

4     (1) In connection with an insurance transaction.

5     (2) For compliance with a request or directive from a law  
6 enforcement or insurance regulatory authority or an administrative,  
7 criminal, or civil legal process, arbitration, or any other legal  
8 requirement or order that is binding upon the licensee, so long as  
9 that law does not interfere with state law, including the  
10 Reproductive Privacy Act (Article 2.5 (commencing with Section  
11 123460) of Chapter 2 of Part 2 of Division 106 of the Health and  
12 Safety Code).

13     (3) When otherwise specifically required by state law.

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

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

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

22     (5) To permit a party or a representative of a party to a proposed  
23 or consummated sale, transfer, merger, or consolidation of all or  
24 part of the business of the licensee to review the information  
25 necessary for the transaction, if both of the following are true:

26     (A) Before the consummation of the sale, transfer, merger, or  
27 consolidation information is only shared as is reasonably necessary  
28 to enable the recipient to make business decisions about the  
29 purchase, transfer, merger, or consolidation.

30     (B) The recipient agrees not to share the acquired personal  
31 information for purposes other than the sale, transfer, merger, or  
32 consolidation.

33     (6) To permit a group policyholder to report claims experience  
34 or conduct an audit of the operations or services of a licensee, if  
35 the information shared is reasonably necessary for the group  
36 policyholder to make the report or conduct the audit and is not  
37 otherwise shared.

38     (7) To permit a governmental authority to determine the  
39 consumer's eligibility for health care benefits for which the  
40 governmental authority may be liable, so long as any disclosure

1 does not interfere with state law, including the Reproductive  
2 Privacy Act (Article 2.5 (commencing with Section 123460) of  
3 Chapter 2 of Part 2 of Division 106 of the Health and Safety Code).

4 (8) In connection with the marketing of a product or service,  
5 after receiving affirmative consent from the consumer to use the  
6 consumer's information in connection with specific marketing  
7 activity to which the consumer has consented.

8 (9) In connection with research activity, after receiving  
9 affirmative consent from the consumer to use the consumer's  
10 information in connection with specific research activity to which  
11 the consumer has consented.

12 *(10) In connection with the joint marketing of cobranded*  
13 *financial products or services between a licensee and a financial*  
14 *institution, provided that all of the following are true:*

15 *(A) The consumer is provided with notice and the ability to opt*  
16 *out of the joint marketing activity, and has not done so.*

17 *(B) Personal information is only processed pursuant to a*  
18 *contract complying with the requirements of subdivision (b) of*  
19 *Section 792.115.*

20 *(C) Only the following elements of personal information are*  
21 *shared and processed for purposes of the joint marketing activity,*  
22 *including providing notice and the opportunity to opt out:*

23 *(i) Name.*

24 *(ii) Address or email address.*

25 *(iii) Financial institution affiliation and account type.*

26 *(iv) Age.*

27 ~~*(10)*~~

28 *(11) Additional purposes specified by the commissioner in*  
29 *regulation.*

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

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

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

38 *(e) This section does not prohibit the sharing of a consumer's*  
39 *personal information with a licensee's affiliates to the extent*

preempted by Section 1681t(b)(1)(H) or Section 1681t(b)(2) of Title 15 of the United States Code.

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

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

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

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

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

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

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

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

~~(7) Uses consistent with the requirements of paragraph (8), (9), or (10) of subdivision (a) of Section 792.125.~~

~~(8) Additional purposes specified by the commissioner in regulation.~~

(b) Not less than annually, a licensee shall review its records containing personal information to determine whether any of the purposes specified in subdivision (a) permit the continuing retention of any consumer's personal information.

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

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

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

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

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

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

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

(f) Unless retention of the personal information is otherwise required by law, a third-party service provider in possession of a consumer's personal information provided by a licensee shall delete that information as of the date specified in the contract between the licensee and third-party service provider, or upon the

1 conclusion of the provision of services, unless the licensee specifies  
2 an earlier destruction date.

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

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

15 *(i) This section does not require the deletion of information*  
16 *related to tracking or detection of fraud or information related to*  
17 *an individual's claims history.*

18 ~~(i)~~

19 (j) This section does not permit or require the deletion of a  
20 record that is required to be retained by law.

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

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

28 (1) To comply with the consent requirements of this article, a  
29 licensee or third-party service provider shall use a method of  
30 capturing a consumer's consent that is capable of being recorded  
31 or maintained for as long as the licensee has a business relationship  
32 with a consumer, or that the licensee or its third-party service  
33 provider is required to maintain the information pursuant to this  
34 article.

35 (2) For purposes of this article, consent is not established by  
36 any of the following means:

37 (A) Acceptance of a general or broad terms of use, or similar  
38 document, that contains descriptions of personal information  
39 processing along with other, unrelated information.

1 (B) Hovering over, muting, pausing, or closing a given piece  
2 of content.

3 (C) Agreement obtained through use of dark patterns.

4 (c) (1) A licensee or third-party service provider shall not  
5 process a consumer's personal information for a purpose unrelated  
6 to the insurance transaction, without the prior consent of the  
7 consumer.

8 (2) *Notwithstanding paragraph (1), if a licensee has given a*  
9 *consumer notice and the opportunity to opt out, and the consumer*  
10 *has not opted out, the licensee may process a consumer's personal*  
11 *information for purposes of joint marketing if the licensee complies*  
12 *with paragraph (10) of subdivision (a) of Section 792.125.*

13 (d) A licensee or third-party service provider shall not process  
14 a consumer's personal information or share a consumer's personal  
15 information with a person outside of the United States or its  
16 territories without the prior consent of the consumer. This  
17 requirement does not apply if the only processing or sharing is  
18 either of the following:

19 (1) In connection with a reinsurance transaction.

20 (2) With an affiliate of the licensee.

21 (e) Before processing a consumer's personal information for a  
22 purpose unrelated to the insurance transaction or sharing a  
23 consumer's personal information with a person outside of the  
24 United States or its territories, a licensee or third-party service  
25 provider shall provide a reasonable means for a consumer to  
26 provide ~~consent~~, *consent or opt out* and maintain a written record  
27 of that ~~consent~~, *consent or opt-out election*.

28 (1) A licensee shall provide the consumer with a means to  
29 separately indicate the consumer's *consent or opt-out election, as*  
30 *applicable*, with respect to use of personal information for any of  
31 the following reasons:

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

33 (B) Marketing products and services from affiliates of the  
34 licensee.

35 (C) *Joint marketing of financial products or services.*

36 ~~(C)~~

37 (D) Marketing products and services from unrelated companies.

38 ~~(D)~~

39 (E) Research activities that are unrelated to the consumer's  
40 insurance transaction.

1     ~~(E)~~

2     (F) Processing the consumer's personal information for any  
3 other purpose unrelated to the insurance transaction.

4     ~~(F)~~

5     (G) Sharing the consumer's personal information with a person  
6 who will process it in a jurisdiction outside of the United States  
7 or its territories.

8     (2) If two or more consumers jointly obtain an insurance or  
9 financial product or service from a licensee, the licensee or  
10 third-party service provider may provide a single consent notice.  
11 Each of the joint consumers may indicate their own consent.

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

15     (A) Be written in plain language.

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

20     (C) Specify the persons with whom the consumer's personal or  
21 privileged information will be shared consistent with the provisions  
22 of this article.

23     (D) Specify the types of personal information the consumer is  
24 authorizing to be shared.

25     (E) Specify the purposes for which the consumer is authorizing  
26 the processing of the consumer's personal information.

27     (F) Name the licensee that the consumer is authorizing to share  
28 the consumer's personal information.

29     (G) Advise the consumer that the consumer is entitled to receive  
30 a copy of the form containing the consumer's consent.

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

34     (I) Include additional information or elements specified by the  
35 commissioner in regulation.

36     (f) A licensee's or third-party service provider's processing of  
37 personal information shall comply with the consumer's consent  
38 as soon as reasonably practicable after the licensee is notified of  
39 the consumer's consent.

(g) A consumer who has consented to processing of personal information pursuant to this section may revoke that consent. A consumer shall be able to revoke consent in any manner by which the consumer is able to indicate consent. A licensee or third-party service provider shall maintain a written record of the revocation.

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

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

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

792.140. (a) A licensee or third-party service provider shall provide easily accessible means for consumers to exercise their rights pursuant to this article, including both of the following:

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

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

(b) The requirements of this section are met if the licensee or third-party service provider provides means for exercising consumer rights that are easy to locate, access, and understand.

(c) A licensee or third-party service provider shall not require a consumer to take unreasonable steps to exercise the consumer's rights pursuant to this article, and shall not require a consumer to pay fees or incur costs to exercise those rights.

(d) A licensee or third-party service provider shall not use dark patterns or other means designed to prevent a consumer from exercising the consumer's rights pursuant to this article. A licensee or third-party service provider shall not use dark patterns or other means designed to influence a consumer's choice to consent or otherwise hinder the consumer from freely choosing to provide or



1 withhold consent to processing of the consumer's personal  
2 information.

3 (e) The commissioner may specify additional requirements  
4 pertaining to access in regulation.

5 792.145. A licensee shall develop, implement, and maintain a  
6 program of administrative, technical, and physical safeguards  
7 sufficient to ensure the confidentiality, integrity, and availability  
8 of nonpublic information in the possession of the licensee.

9 792.150. A licensee or third-party service provider shall  
10 promptly, and in a manner and form specified by the commissioner,  
11 provide notice to the commissioner of an incident constituting a  
12 breach, as defined in subdivision (g) of Section 1798.82 of the  
13 Civil Code. Notice to the commissioner shall comply with Section  
14 1798.82 of the Civil Code.

15 792.155. A licensee that, pursuant to an insurance transaction  
16 with a consumer, takes title to a device containing personal  
17 information of the consumer, shall delete the consumer's personal  
18 information within a reasonable period of time, and shall not further  
19 process or share personal information obtained in this manner.  
20 This section does not require the deletion of privileged information.

21 792.160. (a) A licensee shall provide a clear and conspicuous  
22 privacy notice to a consumer that describes the licensee's privacy  
23 practices. The privacy notice shall be provided within a reasonable  
24 time after the licensee, directly or through a third-party service  
25 provider, first collects, processes, or shares the consumer's personal  
26 or publicly available information, except that a privacy notice shall  
27 not unreasonably be delayed if establishing the consumer  
28 relationship is not at the consumer's election or upon agreement  
29 of the consumer in order to expedite the insurance transaction.  
30 Notwithstanding this requirement, a privacy notice shall not be  
31 required in any of the following circumstances:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 *(8) That the consumer has the right to opt out of joint marketing*  
25 *activity, and that a licensee may process the consumer's personal*  
26 *information in connection with joint marketing activity, unless the*  
27 *consumer has opted out of that processing.*

28 ~~(8)~~

29 (9) That the consumer's prior consent is required for the licensee  
30 or its third-party service providers to process the consumer's  
31 personal information for any purposes unrelated to the insurance  
32 transaction.

33 ~~(9)~~

34 (10) A statement of the rights of the consumer to access, correct,  
35 amend, or delete personal or publicly available information about  
36 the consumer, and the instructions for exercising those rights.

37 ~~(10)~~

38 (11) A statement of the rights of the consumer to receive notice  
39 regarding an adverse underwriting decision, including the reasons  
40 for the adverse underwriting decision, the specific items of

1 information underlying the adverse underwriting decision, and the  
2 sources of that information.

3 ~~(11)~~

4 ~~(12)~~ A statement of the rights of nonretaliation established  
5 pursuant to Section 792.195.

6 ~~(12)~~

7 ~~(13)~~ A statement of the consumer's right to provide consent  
8 before the consumer's personal information may be processed in  
9 a jurisdiction outside of the United States or its territories.

10 ~~(13)~~

11 ~~(14)~~ Additional items that the commissioner specifies in  
12 regulation.

13 (b) If the licensee shares a consumer's personal information for  
14 purposes unrelated to the insurance transaction, in addition to the  
15 information required by subdivision (a), all of the following  
16 information shall be included in the privacy notice:

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

20 (2) A description of the reasonable means by which consumers  
21 may indicate consent for any one or more of those purposes.

22 (3) That once the consumer consents to the sharing, the  
23 consumer may revoke the consent at any time and that the licensee  
24 will no longer share the consumer's personal information for those  
25 purposes.

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

29 792.170. (a) In addition to the privacy notice required pursuant  
30 to Section 792.160, a licensee shall provide to each consumer with  
31 whom the licensee has an ongoing business relationship a privacy  
32 rights notice describing the consumer's rights pursuant to this  
33 article.

34 (b) The privacy rights notice required pursuant to this section  
35 shall do all of the following:

36 (1) Be clear and conspicuous and inform the consumer of the  
37 consumer's right to all of the following:

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

39 (B) Request correction or amendment of inaccurate or  
40 incomplete personal information about the consumer.

1 (C) Request deletion of personal information that is not needed  
2 for completion of the insurance transaction requested by the  
3 consumer.

4 (D) *Opt out of processing of the consumer's personal*  
5 *information in connection with joint marketing activity.*

6 ~~(D)~~

7 (E) Not to have the consumer's personal information used for  
8 ~~marketing~~ marketing, *except as authorized by paragraph (10) of*  
9 *subdivision (a) of Section 792.125*, or research purposes, unless  
10 the consumer has provided consent.

11 ~~(E)~~

12 (F) Be informed that the consumer may consent to the  
13 processing of the consumer's personal information by licensees.  
14 If the consumer chooses to consent, any use of the consumer's  
15 personal information by the licensee shall be limited to the purposes  
16 specified in the consent executed by the consumer.

17 ~~(F)~~

18 (G) Not to have the consumer's personal information collected  
19 by a licensee, unless the personal information is necessary for an  
20 insurance transaction requested by the consumer.

21 ~~(G)~~

22 (H) Request additional information about the licensee's privacy  
23 practices, including identification of all persons who have received  
24 the consumer's personal information within the last three years.

25 ~~(H)~~

26 (I) Be free from retaliation by the licensee and not incur  
27 unreasonable expenses in connection with the consumer's exercise  
28 of rights pursuant to this article.

29 ~~(I)~~

30 (J) Be informed of how to find notice of the licensee's privacy  
31 practices on the licensee's internet website.

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

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

36 (4) Be provided in addition to other notices required pursuant  
37 to this article.

38 (c) The privacy rights notice required pursuant to this section  
39 may be combined with other policy documents or communications  
40 between the licensee and the consumer if the privacy rights notice

1 content required pursuant to this section remains clear and  
2 conspicuous and is readily distinguishable from other information  
3 being provided to the consumer.

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

7 792.175. (a) A licensee shall provide the notices required  
8 pursuant to this article so that the licensee reasonably expects a  
9 consumer to receive actual notice in writing.

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

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

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

16 (3) With respect to a consumer who has agreed to conduct  
17 business electronically pursuant to the Uniform Electronic  
18 Transactions Act (Title 2.5 (commencing with Section 1633.1) of  
19 Part 2 of Division 3 of the Civil Code), and to use the licensee's  
20 internet website or digital application to access insurance products  
21 and services, either of the following:

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

23 (B) With respect to the privacy notice required pursuant to  
24 Section 792.160, emails an initial copy to the consumer's email  
25 address of record, and posts on its internet website in a clear and  
26 conspicuous manner its current notices required pursuant to  
27 Sections 792.160 and 792.170. If the licensee conducts business  
28 through a digital application, the current notices required pursuant  
29 to Sections 792.160 and 792.170 shall be easily accessible through  
30 the digital application.

31 (c) A licensee shall not reasonably expect that a consumer will  
32 receive actual notice of its privacy practices if it does any of the  
33 following:

34 (1) Only posts a sign in its office or generally publishes  
35 advertisements of its privacy practices.

36 (2) Sends the notice electronically to a consumer who has not  
37 agreed to conduct business electronically with the licensee.

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

1 (4) Provides a notice that does not include all required elements  
2 of the notice content, or that requires the consumer to click a link,  
3 scan a code, or use any other secondary means to access any or all  
4 of the required notice content.

5 (5) Does not provide the notices required pursuant to this article  
6 so that the consumer is able to retain them or obtain them later in  
7 writing, either electronically or on paper.

8 (d) A licensee may provide a joint notice from the licensee and  
9 one or more of its affiliates if the notice accurately reflects the  
10 licensee's and the affiliate's privacy practices with respect to the  
11 consumer.

12 (e) If two or more consumers jointly obtain a product or service  
13 in connection with an insurance transaction from a licensee, the  
14 licensee may satisfy the initial and updated notice requirements  
15 of Sections 792.160 and 792.170 by providing one notice to those  
16 consumers jointly.

17 (f) In addition to providing individual notices to consumers, a  
18 licensee shall prominently post and make available the notices  
19 required pursuant to this article on its internet website home page  
20 if the licensee maintains an internet website. The licensee shall  
21 design its internet website home page so that all of the following  
22 are true:

23 (1) The notices are clearly and conspicuously available.

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

28 (3) The notice is either of the following:

29 (A) Placed on a portion of the internet website home page that  
30 consumers frequently access.

31 (B) Accessible using a clear and conspicuous link in an area  
32 that consumers frequently access, such as a page on which  
33 transactions are conducted, that connects directly to the notice and  
34 is labeled appropriately to convey the importance, nature, and  
35 relevance of the notice.

36 (g) Notices and communications to consumers shall be easy to  
37 read, understandable to consumers, and avoid technical or legal  
38 jargon.

39 (1) Notices required pursuant to this article shall meet all of the  
40 following criteria:

1 (A) Use a format that makes the notices readable, including on  
2 smaller screens, if applicable.

3 (B) Be available in the languages in which the licensee in its  
4 ordinary course of business provides contracts, disclaimers, sale  
5 announcements, and other information to consumers.

6 (C) Be accessible to consumers with disabilities. For notices  
7 provided online, the licensee shall follow current generally  
8 recognized industry standards, such as the Web Content  
9 Accessibility Guidelines, version 2.1, from the World Wide Web  
10 Consortium, or the most recent version. Licensees shall take  
11 reasonable steps to ensure that consumers with disabilities may  
12 access the notices in an alternative format.

13 (2) For digital applications, licensees shall include their notices  
14 in a clear and conspicuous manner on the digital application's  
15 platform page or download page. The notices may also be  
16 accessible through a link within the application, such as through  
17 the application's settings menu.

18 (h) An address of record is invalid for purposes of this article  
19 if either of the following is true:

20 (1) USPS mail sent to that address by the licensee has been  
21 returned as undeliverable and subsequent attempts by the licensee  
22 to obtain a current valid address for the consumer have been  
23 unsuccessful.

24 (2) The consumer's email address in the licensee's records is  
25 returned as undeliverable and subsequent attempts by the licensee  
26 to obtain a current valid email address for the consumer have been  
27 unsuccessful.

28 792.180. (a) A consumer may submit a verifiable request to  
29 a licensee for access to the consumer's personal and publicly  
30 available information in the possession of the licensee or its  
31 third-party service providers.

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

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

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

38 (A) Provide the consumer with a copy of any items of personal  
39 information relating to the consumer.



1 (B) If the consumer is not the source of an item of personal  
2 information provided to the consumer pursuant to this subdivision,  
3 identify the source of the item of personal information.

4 (C) Disclose to the consumer the identity of those persons to  
5 whom the licensee or any third-party service provider has shared  
6 an item of the consumer's personal information within the current  
7 year and, at a minimum, the three calendar years before the date  
8 the consumer's request is received.

9 (c) Health information in the possession of a licensee and  
10 requested pursuant to subdivision (a), together with the identity  
11 of the source of the information, shall be supplied either directly  
12 to the consumer or to a health care provider as designated by the  
13 consumer. If the consumer elects for the licensee to disclose the  
14 information to a health care provider designated by the consumer,  
15 the licensee shall notify the consumer, at the time of the disclosure,  
16 that it has provided the information to the designated health care  
17 provider.

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

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

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

24 (2) Shall not extend to privileged information or personal  
25 information about the consumer that is processed in connection  
26 with, or is in reasonable anticipation of, a claim or a civil or  
27 criminal proceeding involving the consumer, until the claim or  
28 proceeding is finalized.

29 (3) *Shall not be construed to require disclosure of information*  
30 *pertaining to an anticipated or active fraud investigation.*

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

35 (g) For purposes of this section, "third-party service provider"  
36 does not include a consumer reporting agency, except to the extent  
37 that this section imposes more stringent requirements on a  
38 consumer reporting agency than other state or federal laws.

39 792.185. (a) A consumer may submit a verifiable request to  
40 a licensee to correct, amend, or delete any personal or publicly

1 available information about the consumer in the possession of the  
2 licensee or its third-party service providers.

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

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

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

10 (A) Correct, amend, or delete the personal or publicly available  
11 information in dispute unless the publicly available information  
12 was part of a government record that can only be corrected,  
13 amended, or deleted upon request by the consumer to the applicable  
14 governmental agency.

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

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

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

23 (iii) The contact information for filing a complaint with the  
24 commissioner.

25 (iv) The consumer's right to file a statement pursuant to  
26 subdivision (d).

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

29 (i) Written notice of the refusal to make the deletion.

30 (ii) The basis for the refusal to delete the information.

31 (iii) The contact information for filing a complaint with the  
32 commissioner.

33 (iv) The consumer's right to file a statement pursuant to  
34 subdivision (d).

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

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

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

8 (A) A person specifically designated by the consumer who may  
9 have received the personal or publicly available information within  
10 the preceding two years.

11 (B) An insurance support organization whose primary source  
12 of personal information is insurers, if the insurance support  
13 organization has systematically received personal information  
14 from the insurer within the preceding five years. The correction,  
15 amendment, or deletion does not need to be furnished if the  
16 insurance support organization no longer maintains personal  
17 information about the consumer.

18 (C) A third-party service provider or insurance support  
19 organization that furnished the personal or publicly available  
20 information.

21 (d) If a consumer disagrees with the refusal of a licensee to  
22 correct, amend, or delete personal or publicly available information,  
23 the consumer may file with the licensee a statement setting forth  
24 both of the following:

25 (1) The relevant and factual information demonstrating the  
26 errors in the information held by the licensee or third-party service  
27 provider.

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

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

33 (1) Include the statement with the disputed personal or publicly  
34 available information and provide a copy of the consumer's  
35 statement to anyone reviewing the disputed personal or publicly  
36 available information.

37 (2) Clearly identify, in a later disclosure of the personal or  
38 publicly available information that is the subject of disagreement,  
39 the matter or matters in dispute and include the consumer's

1 statement with the personal or publicly available information being  
2 disclosed.

3 (f) The rights granted to a consumer by this section shall not  
4 extend to personal or publicly available information about the  
5 consumer that is processed in connection with or in reasonable  
6 anticipation of a claim or a civil or criminal proceeding involving  
7 the consumer.

8 (g) *The rights granted to a consumer by this section shall not*  
9 *extend to records evidencing interest in real property that have*  
10 *been accurately transcribed from a county recorder's records into*  
11 *a title plant owned by an insurer licensed to transact title*  
12 *insurance, as defined in Section 104.*

13 ~~(g)~~

14 (h) A licensee shall provide reasonable means for a consumer  
15 to exercise the consumer's rights pursuant to this section. A  
16 licensee does not provide reasonable means if they are unduly  
17 burdensome or require the consumer to incur expenses.

18 ~~(h)~~

19 (i) For purposes of this section, "insurance support organization"  
20 does not include a consumer reporting agency, except to the extent  
21 that this section imposes more stringent requirements on a  
22 consumer reporting agency than other state or federal law.

23 792.190. (a) In the event of an adverse underwriting decision,  
24 the licensee responsible for the decision shall provide all of the  
25 following in writing to the consumer at the consumer's address of  
26 record:

27 (1) The specific reason or reasons for the adverse underwriting  
28 decision.

29 (2) The specific items of personal, publicly available, or  
30 privileged information that support those reasons, including the  
31 names and addresses of the sources that supplied the information  
32 resulting in the adverse underwriting decision.

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

36 (4) Notwithstanding paragraph (2):

37 (A) A licensee shall not be required to furnish specific privileged  
38 information if it has a reasonable suspicion, based upon specific  
39 information available for review by the commissioner, that the  
40 consumer has engaged in criminal activity, fraud, material

1 misrepresentation, or a material nondisclosure, and the information  
2 withheld relates to the suspected criminal activity, fraud, material  
3 misrepresentation, or a material nondisclosure.

4 (B) Health information supplied by a health care provider shall  
5 be disclosed either directly to the consumer about whom the  
6 information relates, or to a health care provider designated by the  
7 individual consumer and licensed to provide health care with  
8 respect to the condition to which the information relates. The  
9 identity of any health care provider shall be disclosed either directly  
10 to the consumer or to the health care provider designated by the  
11 consumer.

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

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

16 (1) Solely the loss history of the previous owner of the property  
17 to be insured.

18 (2) Personal information received from a third-party service  
19 provider whose primary source of information is licensees, unless  
20 the licensee obtains further information independently supporting  
21 the adverse underwriting decision.

22 (3) A previous adverse underwriting decision affecting the  
23 consumer, unless the licensee bases its underwriting decision on  
24 the underlying basis of the previous decision.

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

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

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

34 (d) The commissioner may assist a consumer with obtaining  
35 information about an adverse underwriting decision affecting the  
36 consumer. The commissioner may request information regarding  
37 systems, processes, policies, or procedures responsible for  
38 generating information resulting in the adverse underwriting  
39 decision. Any information received about systems, processes,  
40 policies, or procedures shall be received pursuant to Section 12919

1 and shall not be subject to the California Public Records Act  
2 (Division 10 (commencing with Section 7920.000) of Title 1 of  
3 the Government Code).

4 (e) For purposes of this article, the following actions are not  
5 adverse underwriting decisions, but the licensee responsible for  
6 taking the action shall provide the consumer with the specific  
7 reason or reasons for the action in writing:

8 (1) The termination of an individual policy form on a classwide  
9 or statewide basis, except termination of a title insurance policy  
10 form.

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

13 (3) If requested by a consumer, any other insurer-initiated  
14 increase in premium on an insurance product purchased by a  
15 consumer.

16 792.195. A licensee or a third-party service provider shall not  
17 retaliate against a consumer because the consumer exercised or  
18 attempted to exercise the consumer's rights pursuant to this article.  
19 A licensee or a third-party service provider retaliates against a  
20 consumer if the licensee or third-party service provider, as a result  
21 of a consumer's privacy choices, does any of the following:

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

24 (b) Requires the consumer to consent to sharing of the  
25 consumer's personal information for a purpose unrelated to an  
26 insurance transaction to obtain a particular product, coverage, rate,  
27 or service, if the consumer has an option to consent to sharing  
28 pursuant to this article.

29 (c) Imposes a fee or charge for a consumer to exercise the  
30 consumer's rights pursuant to this article.

31 (d) Charges a different rate or premium to the consumer,  
32 provides a different insurance product, refuses to write insurance  
33 coverage for the consumer, or denies a claim under an insurance  
34 product purchased by the consumer.

35 792.200. (a) A licensee or third-party service provider shall  
36 not prepare or request an investigative consumer report about a  
37 consumer in connection with an insurance transaction involving  
38 an application for insurance, policy renewal, policy reinstatement,  
39 or change in insurance benefits unless the licensee or third-party

1 service provider informs the consumer in writing before the report  
2 preparation that the consumer:

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

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

8 (b) If a licensee uses a third-party service provider to obtain an  
9 investigative consumer report, the written contract between the  
10 licensee and the third-party service provider shall require the  
11 third-party service provider to do both of the following:

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

13 (2) Not use personal information provided to the third-party  
14 service provider by the licensee or obtained by the third-party  
15 service provider in its investigation of the consumer other than to  
16 fulfill the purpose of the contract with the licensee.

17 (c) If a licensee requests that a third-party service provider  
18 prepare an investigative consumer report, the licensee shall notify  
19 the third-party service provider in writing if a personal interview  
20 has been requested by the consumer. The third-party service  
21 provider shall conduct the interview requested.

22 (d) A licensee that prepares or requests an investigative  
23 consumer report in connection with an insurance claim shall notify  
24 the consumer that the consumer may request to be interviewed in  
25 connection with the preparation of the investigative consumer  
26 report. Neither the licensee nor the third-party service provider is  
27 required to provide a copy of an investigative report prepared in  
28 connection with an insurance claim, and that contains privileged  
29 information, unless compelled to do so by a state or federal court.

30 792.210. (a) To determine if a licensee or third-party service  
31 provider has been or is engaged in any conduct in violation of this  
32 article, the commissioner may examine and investigate the affairs  
33 of a licensee or third-party service provider transacting business  
34 in this state or transacting business outside this state that has an  
35 effect on a consumer residing in this state.

36 (b) (1) If the commissioner has reason to believe that a licensee  
37 or third-party service provider has been or is engaged in conduct  
38 that violates this article, in this state or outside this state that has  
39 an effect on a consumer residing in this state, the commissioner  
40 shall issue and serve upon the licensee or third-party service

1 provider a statement of charges and notice of hearing to be held  
2 at a time and place fixed in the notice. The date for the hearing  
3 shall be not less than 30 days after the date of service.

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

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

24 (4) Statements of charges, notice, orders, and other processes  
25 of the commissioner pursuant to this article may be served by  
26 anyone duly authorized to act on behalf of the commissioner.  
27 Service of process may be completed in the manner provided by  
28 law for service of process in civil actions or by registered mail or  
29 by a mailing service offered by a third-party mailing service with  
30 tracking capability. A copy of the statement of charges, notice,  
31 order, or other process shall be provided to the person or persons  
32 whose rights pursuant to this article have been allegedly violated.  
33 A verified return setting forth the manner of service, the return  
34 postcard receipt in the case of registered mail, or signed receipt  
35 documentation, shall be sufficient proof of service.

36 (5) A third-party service provider transacting business outside  
37 this state that has an effect on a person residing in this state shall  
38 be deemed to have appointed the commissioner to accept service  
39 of process on its behalf, if the commissioner causes a copy of the  
40 service to be mailed immediately by registered or certified mail,



1 or by a mailing service offered by a third-party mailing service  
2 with tracking capability, to the third-party service provider at its  
3 last known principal place of business. The return postcard receipt  
4 or signed receipt documentation for the mailing shall be sufficient  
5 proof of proper mailing by the commissioner.

6 (c) (1) If, after a hearing pursuant to subdivision (b), the  
7 commissioner determines that the licensee or third-party service  
8 provider charged has engaged in conduct or practices in violation  
9 of this article, the commissioner shall reduce the commissioner's  
10 findings to writing and shall issue and cause to be served upon the  
11 licensee or third-party service provider a copy of the findings and  
12 an order requiring the licensee or third-party service provider to  
13 cease and desist from the conduct or practices constituting a  
14 violation of this article.

15 (2) If, after a hearing pursuant to subdivision (b), the  
16 commissioner determines that the licensee or third-party service  
17 provider charged has not engaged in conduct or practices in  
18 violation of this article, the commissioner shall prepare a written  
19 report that sets forth findings of fact and conclusions of law. The  
20 report shall be served upon the licensee or third-party service  
21 provider charged and upon the person or persons, if any, whose  
22 rights pursuant to this article were allegedly violated.

23 (3) Until the expiration of the time allowed pursuant to this  
24 article for filing a petition for review or until the petition is actually  
25 filed, whichever occurs first, the commissioner may modify or set  
26 aside an order or report issued under this section. If a petition has  
27 not been duly filed after the expiration of the time allowed for  
28 filing a petition for review, the commissioner may, after notice  
29 and opportunity for hearing, alter, modify, or set aside, in whole  
30 or in part, an order or report issued under this section if conditions  
31 of fact or law warrant that action or if the public interest requires.

32 (d) A person subject to an order of the commissioner pursuant  
33 to subdivision (c) or a person whose rights pursuant to this article  
34 were allegedly violated may obtain a review of an order or report  
35 of the commissioner by submitting a filing in a court of competent  
36 jurisdiction pursuant to Section 1094.5 of the Code of Civil  
37 Procedure within 30 days from the date of the service of the order  
38 or report. The court shall have jurisdiction to make and enter a  
39 decree modifying, affirming, or reversing an order or report of the  
40 commissioner, in whole or in part.

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

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

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

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

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

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

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

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

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

792.215. (a) Any documents, materials, data, or information in the control or possession of the commissioner that are furnished by a licensee or third-party service provider, or an employee or agent thereof acting on behalf of the licensee or third-party service provider, pursuant to this article, or that are obtained by the commissioner in any investigation, or an examination pursuant to

1 this article shall be confidential by law and privileged, shall not  
2 be subject to the California Public Records Act (Division 10  
3 (commencing with Section 7920.000) of Title 1 of the Government  
4 Code), shall not be subject to subpoena, and shall not be subject  
5 to discovery or admissible in evidence in a private civil action.  
6 This article does not limit the commissioner's authority to use and,  
7 if appropriate, to make public, a final or preliminary examination  
8 report, examiner or company work papers or other documents, or  
9 any other information discovered or developed during the course  
10 of any examination in the furtherance of a legal or regulatory action  
11 that the commissioner may, in the commissioner's discretion, deem  
12 appropriate.

13 (b) The commissioner or a person who receives documents,  
14 data, materials, or information while acting pursuant to the  
15 authority of the commissioner shall not be permitted or required  
16 to testify in a private civil action concerning confidential  
17 documents, materials, or information subject to this article.

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

20 (1) May share documents, data, materials, or information,  
21 including the confidential and privileged documents, data,  
22 materials, or information subject to this article, with other state,  
23 federal, and international regulatory agencies, the National  
24 Association of Insurance Commissioners, its affiliates, or  
25 subsidiaries, a third-party consultant or vendor, and with state,  
26 federal, and international law enforcement authorities, if the  
27 recipient agrees in writing to maintain the confidentiality and  
28 privileged status of the documents, data, materials, or information.

29 (2) May receive documents, data, materials, or information,  
30 including otherwise confidential and privileged documents, data,  
31 materials, or information, from the National Association of  
32 Insurance Commissioners, its affiliates, or subsidiaries and from  
33 regulatory and law enforcement officials of other foreign or  
34 domestic jurisdictions, and shall maintain as confidential or  
35 privileged the documents, data, materials, or information received  
36 with notice or the understanding that it is confidential or privileged  
37 pursuant to the laws of the jurisdiction that is the source of the  
38 documents, data, materials, or information.

39 (3) Shall enter into a written agreement with a third-party  
40 consultant or vendor governing sharing and use of documents,

1 data, materials, or information provided pursuant to this article,  
2 consistent with this subdivision that shall do all of the following:

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

6 (B) Specify that the ownership of the documents, data, materials,  
7 or information shared pursuant to this article with the third-party  
8 consultant or vendor remains with the commissioner, and the  
9 third-party consultant's or vendor's use of the information is  
10 subject to the direction of the commissioner.

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

14 (D) Require prompt notice be given to the commissioner if  
15 confidential documents, data, materials, or information in  
16 possession of the third-party consultant or vendor pursuant to this  
17 article is subject to a request or subpoena to the third-party  
18 consultant or vendor for disclosure or production.

19 (E) Require the third-party consultant or vendor to consent to  
20 intervention by a licensee or third-party service provider in a  
21 judicial or administrative action in which the third-party consultant  
22 or vendor may be required to disclose confidential information  
23 about the licensee or third-party service provider shared with the  
24 third-party consultant or vendor pursuant to this article.

25 (d) A waiver of any applicable privilege or claim of  
26 confidentiality in the documents, data, materials, or information  
27 shall not occur due to disclosure to the commissioner pursuant to  
28 this section or due to sharing as authorized in this article.

29 (e) This article does not prohibit the commissioner from  
30 exercising discretion, pursuant to applicable laws, to release final,  
31 adjudicated actions that are open to public inspection to a database  
32 or other clearinghouse service maintained by the National  
33 Association of Insurance Commissioners, its affiliates, or  
34 subsidiaries.

35 792.220. (a) Notwithstanding any other law, a licensee or  
36 third-party service provider shall maintain sufficient evidence in  
37 its records of compliance with this article for the calendar year in  
38 which the activities governed by this article occurred and the three  
39 calendar years thereafter.

1 (b) A licensee or third-party service provider shall maintain all  
2 records necessary for compliance with this article, including all  
3 of the following:

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

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

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

12 792.225. (a) If a licensee or third-party service provider fails  
13 to comply with Section 792.125, 792.135, 792.140, 792.180,  
14 792.185, 792.190, or 792.195, with respect to the rights granted  
15 pursuant to those sections, a person whose rights are violated may  
16 apply to a court of competent jurisdiction for appropriate equitable  
17 relief. A licensee or third-party service provider that discloses  
18 information in violation of Section 792.125 shall be liable for  
19 damages sustained by the consumer about whom the information  
20 relates. A consumer is not entitled to a monetary award that exceeds  
21 the actual damages sustained by the consumer as a result of a  
22 violation of Sections 792.125 and 792.135.

23 (b) In an action brought pursuant to this section, the court may  
24 award the cost of the action and reasonable attorney's fees to the  
25 prevailing party.

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

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

32 792.230. (a) A cause of action for defamation, invasion of  
33 privacy, or negligence shall not arise against either of the  
34 following:

35 (1) A person for disclosing personal or privileged information  
36 in accordance with this article.

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

1 (b) This section does not provide immunity for disclosing or  
2 furnishing false information with malice or willful intent to injure  
3 a person.

4 792.235. A person who knowingly and willfully obtains  
5 information about a consumer from a licensee or third-party service  
6 provider under false pretenses is guilty of a misdemeanor  
7 punishable by imprisonment in a county jail for up to six months,  
8 a fine of up to fifty thousand dollars (\$50,000), or both.

9 792.240. The provisions of this article are severable. If any  
10 provision of this article or its application is held invalid, that  
11 invalidity shall not affect other provisions or applications that can  
12 be given effect without the invalid provision or application.

13 792.245. (a) This article preempts and supersedes all state  
14 laws and portions of state laws that are inconsistent with this article.

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

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

19 792.250. The commissioner may issue rules, regulations, and  
20 orders as the commissioner deems convenient to carry out this  
21 article. The rules or regulations promulgated pursuant to this article  
22 shall not be subject to the Administrative Procedure Act (Chapter  
23 3.5 (commencing with Section 11340) of Part 1 of Division 3 of  
24 Title 2 of the Government Code).

25 792.255. A licensee has five years from the operative date of  
26 this article to implement Section 792.130, except that a licensee  
27 shall comply with subdivision (c) of Section 792.130 on the  
28 operative date of this article.

29 SEC. 3. The Legislature finds and declares that Section 2 of  
30 this act, which adds Sections 792.115, 792.130, 792.190, and  
31 792.215 to the Insurance Code, imposes a limitation on the public's  
32 right of access to the meetings of public bodies or the writings of  
33 public officials and agencies within the meaning of Section 3 of  
34 Article I of the California Constitution. Pursuant to that  
35 constitutional provision, the Legislature makes the following  
36 findings to demonstrate the interest protected by this limitation  
37 and the need for protecting that interest:

38 (a) The documents protected from public disclosure pursuant  
39 to this act are not official records of the department. These  
40 documents contain confidential and sensitive information related

1 to a licensee or third-party service provider's personal information  
2 privacy compliance, internal operations, and proprietary and trade  
3 secret information that, if made public, could potentially cause the  
4 licensee or third-party service provider competitive harm or  
5 disadvantage, or expose a licensee or third-party service provider's  
6 personal information practices to malicious external actors.

7 (b) The interests in protecting the internal operations and  
8 proprietary and trade secret information of the licensees and  
9 third-party services providers, in order to promote consumer choice  
10 and competition in the marketplace and prevent malicious actors  
11 from exploiting this information, strongly outweigh the public  
12 interest in having access to this information, and there are other  
13 means to obtain this information, such as a subpoena for the  
14 original source of the information.

15 SEC. 4. No reimbursement is required by this act pursuant to  
16 Section 6 of Article XIII B of the California Constitution because  
17 the only costs that may be incurred by a local agency or school  
18 district will be incurred because this act creates a new crime or  
19 infraction, eliminates a crime or infraction, or changes the penalty  
20 for a crime or infraction, within the meaning of Section 17556 of  
21 the Government Code, or changes the definition of a crime within  
22 the meaning of Section 6 of Article XIII B of the California  
23 Constitution.