

AMENDED IN SENATE APRIL 3, 2025

AMENDED IN SENATE MARCH 18, 2025

SENATE BILL

No. 354

Introduced by Senator Limón

February 12, 2025

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 for not more than one year in a county jail, or both, thus creating a crime and imposing a state-mandated local program.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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

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

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
21 browse the internet from one internet website to another, and to

1 hold businesses accountable if they do not take reasonable steps
2 to safeguard their personal information.

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

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14 2002, continue to be decades out of date and lag behind the broadly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

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

34 (6) The absence of effective oversight leaves consumers
35 vulnerable. Currently, consumers are presented with privacy notices
36 that are confusing and uninformative, and may also be subject to
37 the overcollection of their personal information, proliferation of
38 that information to recipients not contemplated by the consumer,
39 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 ~~their~~ *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.

14 792.105. The protections of this article shall extend to a
15 consumer who meets any of the following criteria:

16 (a) Whose personal information is processed in connection with
17 an insurance transaction.

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

21 (c) Whose personal information is used for purposes other than
22 insurance transactions by licensees and third-party service
23 providers.

24 792.110. For purposes of this article:

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

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

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

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

34 (1) A denial, in whole or in part, of insurance coverage requested
35 by a ~~consumer~~ *consumer, including a reduction in coverage limits*
36 *or scope of coverage.*

37 (2) A termination of insurance coverage for reasons other than
38 nonpayment of premium or, for title insurance coverage, for reasons
39 other than transfer of title to the insured property or satisfaction
40 or release of the insured lien interest.

1 (3) A rescission of the insurance policy.

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

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

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

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

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

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

14 (c) “Affiliate” or “affiliated” means a person that directly, or
15 indirectly through one or more intermediaries, controls, is
16 controlled by, or is under common control with another person.
17 For purposes of this definition, “control” means any of the
18 following:

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

23 (2) Control over the election of a majority of the directors,
24 trustees, or general partners of the company, or individuals
25 exercising similar functions of the company.

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

29 (d) “Aggregated consumer information” means information that
30 relates to a group or category of consumers, that is deidentified,
31 and that is not linked or reasonably linkable to a consumer,
32 household, or specific electronic device.

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

36 (f) “Biometric information” means an individual’s physiological,
37 biological, or behavioral characteristics that can be used, singly
38 or in combination with other identifying information, to establish
39 a consumer’s identity. Biometric information may include an iris
40 or retina scan, fingerprint, face, hand, palm, ear, vein pattern, and

1 voiceprint, from which an identifier template, such as a faceprint,
2 a minutiae template, or a voiceprint, can be extracted, and keystroke
3 patterns or rhythms, gait patterns or rhythms, or any other means
4 to identify an individual.

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

8 (h) “Collect” or “collecting” means buying, renting, gathering,
9 obtaining, receiving, or accessing a consumer’s personal
10 information.

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

12 ~~(j) “Consent” means a method of capturing a consumer’s consent~~
13 ~~that is capable of being recorded or maintained for as long as the~~
14 ~~licensee has a business relationship with a consumer, or that the~~
15 ~~licensee or its third-party service provider is required to maintain~~
16 ~~the information pursuant to this article.~~

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

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

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

38 (2) A consumer is a resident of this state if the consumer’s last
39 known mailing address, as shown in the records of the licensee,

1 is in this state unless the last known address of record is deemed
2 invalid pursuant to subdivision (h) of Section 792.175.

3 (l) “Consumer report” has the same meaning as defined in
4 Section 603(d) of the federal Fair Credit Reporting Act ~~(Section~~
5 ~~1681a(d) of Title 15 of the United States Code)~~. *(15 U.S.C. Sec.*
6 *1681a(d))*.

7 (m) “Consumer reporting agency” has the same meaning as
8 defined in Section 603(f) of the federal Fair Credit Reporting Act
9 ~~(Section 1681a(f) of Title 15 of the United States Code)~~. *(15 U.S.C.*
10 *Sec. 1681a(f))*.

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

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

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

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

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

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

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

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

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

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

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

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

(A) An individual’s genetic tests.

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

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

(D) A request for, or receipt of, genetic services, or participation in clinical research that includes genetic services, by an individual 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.

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

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

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

10 (2) The genetic information of an individual.

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

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

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

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

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

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

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

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

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

39 (B) Licensees or third-party service providers performing
40 services, including maintaining or servicing accounts, providing

1 customer service, processing requests or transactions, verifying
2 customer information, processing payments, providing financing,
3 providing analytic services, providing storage, or any similar
4 services.

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

7 (D) Processing of personal information using algorithmic or
8 automated decisionmaking means.

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

12 (F) The short-term, transient use of a consumer’s personal
13 information in connection with the consumer’s current interaction
14 with the licensee, including nonpersonalized advertising shown
15 as part of a consumer’s current interaction with the licensee, if the
16 consumer’s personal information is not otherwise shared or sold
17 and is not used to build a profile about the consumer or otherwise
18 alter the consumer’s experience outside the current interaction
19 with the licensee.

20 (G) Detection or prevention of insurance fraud, crime related
21 to insurance claims, material misrepresentation, or material
22 nondisclosure.

23 (H) Providing personal information to statistical agents,
24 reinsurers, or insurance support organizations, provided that the
25 personal information is only used for the purposes for which it is
26 shared.

27 (2) “Insurance transaction” does not include processing related
28 to marketing or research.

29 (y) (1) “Insurer” means any of the following:

30 (A) A corporation, association, or partnership required to be
31 licensed by the commissioner to assume risk or otherwise
32 authorized to assume risk, including a nonprofit hospital, medical,
33 or health care service organization, health maintenance
34 organization, reciprocal exchange, interinsurer, ~~Lloyd’s insurer~~,
35 fraternal benefit society, or multiple-employer welfare arrangement.

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

38 (C) A preferred provider organization administrator.

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

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

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

(A) An insurer.

(B) A producer.

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

(C) *A surplus line insurer.*

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

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

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

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

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

(ae) “Personal information” means information processed in the business of insurance that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably

1 be linked, directly or indirectly, with a particular consumer or
2 household.

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

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

11 (B) Personal information described in subdivision (e) of Section
12 1798.80 of the Civil Code.

13 (C) Characteristics of protected classifications pursuant to state
14 or federal law.

15 (D) Commercial information, including records of personal
16 property, products or services purchased, obtained, or considered,
17 or other purchasing or consuming histories or tendencies.

18 (E) Biometric information.

19 (F) Internet or other electronic network activity information,
20 including browsing history, search history, and information
21 regarding a consumer’s interaction with an internet website
22 application or advertisement.

23 (G) Geolocation data.

24 (H) Auditory, electronic, visual, thermal, olfactory, or other
25 sensory information.

26 (I) Professional or employment-related information.

27 (J) Education information that is not publicly available,
28 personally identifiable information as defined in the Family
29 Educational Rights and Privacy Act (~~Section 1232g of Title 20 of~~
30 ~~the United States Code~~) (*20 U.S.C. Sec. 1232g*) and related
31 regulations (Part 99 (commencing with Section 99.1) of Title 34
32 of the Code of Federal Regulations).

33 (K) Inferences drawn from any of the information identified in
34 this paragraph to create a profile about a consumer reflecting the
35 consumer’s preferences, characteristics, character, habits,
36 avocations, finances, occupation, general reputation, credit, health,
37 psychological trends, predispositions, behavior, attitudes,
38 intelligence, abilities, and aptitudes.

39 (L) Sensitive personal information.

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

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

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

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

12 (iii) Information made available by a person to whom the
13 consumer has disclosed the information if the consumer has not
14 restricted the information to a specific audience.

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

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

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

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

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

25 (4) “Personal information” does not include aggregated
26 consumer information, deidentified information, or publicly
27 available information.

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

33 (ag) “Privileged information” means personal information that
34 is collected in connection with or in reasonable anticipation of a
35 claim for insurance benefits or a civil or criminal proceeding
36 involving a consumer, until the claim or proceeding is finalized.
37 However, information that otherwise meets the requirements of
38 this article shall nevertheless be considered “personal information”
39 if it is disclosed in violation of this article.

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

8 (ai) “Producer” means a person licensed pursuant to Chapter 5
9 (commencing with Section 1621), Chapter 5A (commencing with
10 Section 1759), Chapter 6 (commencing with Section 1760), Chapter
11 7 (commencing with Section 1800), or Chapter 8 (commencing
12 with Section 1831).

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

- 16 (1) Federal, state, or local government records.
- 17 (2) Widely distributed media.
- 18 (3) Disclosures to the general public that are required to be made
19 pursuant to federal, state, or local law.

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

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

- 31 (1) Relating to rating or risk management.
- 32 (2) For actuarial studies.
- 33 (3) Disclosure to an insurance support organization.
- 34 (4) Subject to a research university internal review board or
35 privacy board approval that requires use of a process that follows
36 confidentiality best practices and if a contract agreeing to that
37 protection has been executed.

38 (am) “Residual market mechanism” means the California FAIR
39 Plan Association established pursuant to Chapter 9 (commencing
40 with Section 10090) of Part 1 of Division 2, the assigned risk plan

1 established pursuant to Chapter 1 (commencing with Section
2 11550) of Part 3 of Division 2, and the State Compensation
3 Insurance Fund established pursuant to Chapter 4 (commencing
4 with Section 11770) of Part 3 of Division 2.

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

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

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

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

18 (3) Providing information to an affiliate.

19 (4) Transferring personal information to a third party as an asset
20 pursuant to a merger, acquisition, bankruptcy, or other transaction,
21 or a proposed merger, acquisition, bankruptcy, or other transaction
22 in which the party assumes control of all or part of the licensee’s
23 assets.

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

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

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

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

34 (3) Precise geolocation.

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

37 (5) Content of personal mail, personal email, personal text
38 messages, or personal voice or video communications, unless the
39 person in possession is the intended recipient of the
40 communication.

1 (6) Genetic or neural data.

2 (7) Information about ~~their~~ *the consumer's* sex life or sexual
3 orientation.

4 (8) Health information.

5 (9) Biometric information.

6 (10) Additional items specified by the commissioner in
7 regulation.

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

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

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

21 (B) The licensee or third-party service provider uses or shares
22 an identifier for a consumer who has opted out of the sharing of
23 the consumer’s personal information or limited the use of the
24 consumer’s sensitive personal information for the purposes of
25 alerting persons that the consumer has opted out of the sharing of
26 the consumer’s personal information or limited the use of the
27 consumer’s sensitive personal information.

28 (C) The licensee or third-party service provider transfers to a
29 third party the personal information of a consumer as an asset that
30 is part of a merger, acquisition, bankruptcy, or other transaction
31 in which the third party assumes control of all or part of the
32 business, if that information is used or shared consistently with
33 this article. If a third party materially alters how it uses or shares
34 the personal information of a consumer in a manner that is
35 materially inconsistent with the promises made at the time of
36 collection, it shall provide prior notice of the new or changed
37 practice to the consumer. The notice shall be sufficiently prominent
38 and robust to ensure that existing consumers can easily exercise
39 their consent consistently with this article. This subparagraph does
40 not authorize a person to make material, retroactive privacy policy

1 changes or make other changes ~~in their~~ to a privacy policy in a
2 manner that would violate the Unfair Practices Act (Chapter 4
3 (commencing with Section 17000) of Part 2 of Division 7 of the
4 Business and Professions Code).

5 (ar) “Statistical agent” means an entity that has been designated
6 by the commissioner to collect statistics from licensees and provide
7 reports developed from those statistics to the commissioner for
8 the purpose of fulfilling the statistical reporting obligations of
9 those licensees.

10 (as) “*Surplus line insurer*” means a nonadmitted insurer that
11 accepts business placed through a licensed surplus line broker
12 pursuant to Chapter 6 (commencing with Section 1760).

13 ~~(as)~~

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

18 ~~(at)~~

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

32 ~~(au)~~

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

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

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

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

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

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

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

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

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

10 (G) Provide post-loss services.

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

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

17 ~~(av)~~

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

23 ~~(aw)~~

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

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

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

1 and purpose of processing, the types of personal information
2 subject to processing, the duration of processing, and the rights
3 and obligations of both parties. The contract shall also include
4 requirements that the third-party service provider shall do all of
5 the following:

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

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

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

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

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

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

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

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

38 (9) Promptly notify the licensee if the third-party service
39 provider is no longer able to comply with its obligations under the

1 contract, in which case the licensee has the right to terminate the
2 contract.

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

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

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

21 792.120. (a) A licensee shall not process a consumer's personal
22 information unless both of the following are true:

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

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

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

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

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

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

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

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

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

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

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

25 792.125. (a) Consistent with this article, a licensee may process
26 a consumer's personal information as necessary for all of the
27 following purposes:

28 (1) In connection with an insurance transaction.

29 (2) For compliance with a request or directive from a law
30 enforcement or insurance regulatory authority or an administrative,
31 criminal, or civil legal process, arbitration, or any other legal
32 requirement or order that is binding upon the licensee, so long as
33 that law does not interfere with state law, including the
34 Reproductive Privacy Act (Article 2.5 (commencing with Section
35 123460) of Chapter 2 of Part 2 of Division 106 of the Health and
36 Safety Code).

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

38 (4) For a lienholder, mortgagee, assignee, lessor, or other person
39 shown on the records of a licensee as having a legal or beneficial

1 interest in an insurance policy, to protect that interest, if both of
2 the following are true:

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

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

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

11 (A) Before the consummation of the sale, transfer, merger, or
12 consolidation information is only shared as is reasonably necessary
13 to enable the recipient to make business decisions about the
14 purchase, transfer, merger, or consolidation.

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

18 (6) To permit a group policyholder to report claims experience
19 or conduct an audit of the operations or services of a licensee, if
20 the information shared is reasonably necessary for the group
21 policyholder to make the report or conduct the audit and is not
22 otherwise shared.

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

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

33 (9) In connection with research activity, after receiving
34 affirmative consent from the consumer to use the consumer's
35 information in connection with specific research activity to which
36 the consumer has consented.

37 (10) Additional purposes specified by the commissioner in
38 regulation.

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

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

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

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

12 792.130. (a) Once the licensee provides the initial privacy
13 notice pursuant to this article, the licensee may retain a consumer's
14 personal information as necessary for any of the following:

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

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

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

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

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

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

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

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

5 (c) A licensee shall develop a written records retention policy
6 and records retention schedule and shall make it available to the
7 commissioner upon request. A licensee's policy and schedule
8 developed pursuant to this subdivision shall be confidential and
9 not subject to 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). Not less than annually, a
12 licensee shall review and update its records retention policy and
13 records retention schedule to ensure compliance with this article.

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

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

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

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

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

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

39 (f) Unless retention of the personal information is otherwise
40 required by law, a third-party service provider in possession of a

1 consumer's personal information provided by a licensee shall
2 delete that information as of the date specified in the contract
3 between the licensee and third-party service provider, or upon the
4 conclusion of the provision of services, unless the licensee specifies
5 an earlier destruction date.

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

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

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

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

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

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

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

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

39 *(B) Hovering over, muting, pausing, or closing a given piece*
40 *of content.*

1 (C) *Agreement obtained through use of dark patterns.*

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

5 (d) A licensee or third-party service provider shall not process
6 a consumer's personal information or share a consumer's personal
7 information with a person outside of the United States or its
8 territories without the prior consent of the consumer. This
9 requirement does not apply if the only processing or sharing is
10 either of the following:

11 (1) In connection with a reinsurance transaction.

12 (2) With an affiliate of the licensee.

13 (e) Before processing a consumer's personal information for a
14 purpose unrelated to the insurance transaction or sharing a
15 consumer's personal information with a person outside of the
16 United States or its territories, a licensee *or third-party service*
17 *provider* shall provide a reasonable means for a consumer to
18 provide consent, and maintain a written record of that consent.

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

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

23 (B) Marketing products and services from affiliates of the
24 licensee.

25 (C) Marketing products and services from unrelated companies.

26 (D) Research activities that are unrelated to the consumer's
27 insurance transaction.

28 (E) Processing the consumer's personal information for any
29 other purpose unrelated to the insurance transaction.

30 (F) Sharing the consumer's personal information with a person
31 who will process it in a jurisdiction outside of the United States
32 or its territories.

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

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

40 (A) Be written in plain language.

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

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

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

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

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

14 (G) Advise the consumer that ~~they are~~ *the consumer is* entitled
15 to receive a copy of the form containing the consumer's consent.

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

19 (I) Include additional information or elements specified by the
20 commissioner in regulation.

21 (f) A licensee's *or third-party service provider's* processing of
22 personal information shall comply with the consumer's consent
23 as soon as reasonably practicable after the licensee is notified of
24 the consumer's consent.

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

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

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

38 (j) If a consumer later establishes a new relationship with the
39 licensee, any consent that applied to the former relationship shall
40 not apply to the new relationship. A new relationship occurs when

1 the consumer who previously ended all business relationships with
2 the licensee reestablishes a business relationship more than 30
3 days after the previous business relationship ended.

4 792.140. (a) A licensee *or third-party service provider* shall
5 provide easily accessible means for consumers to exercise their
6 rights pursuant to this article, including both of the following:

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

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

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

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

20 (d) A licensee *or third-party service provider* shall not use dark
21 patterns or other means designed to prevent a consumer from
22 exercising the consumer's rights pursuant to this article. *A licensee*
23 *or third-party service provider shall not use dark patterns or other*
24 *means designed to influence a consumer's choice to consent or*
25 *otherwise hinder the consumer from freely choosing to provide or*
26 *withhold consent to processing of the consumer's personal*
27 *information.*

28 (e) The commissioner may specify additional requirements
29 pertaining to access in regulation.

30 792.145. A licensee shall develop, implement, and maintain a
31 program of administrative, technical, and physical safeguards
32 sufficient to ensure the confidentiality, integrity, and availability
33 of nonpublic information in the possession of the licensee.

34 792.150. A licensee or third-party service provider shall
35 promptly, and in a manner and form specified by the commissioner,
36 provide notice to the commissioner of an incident constituting a
37 breach, as defined in subdivision (g) of Section 1798.82 of the
38 Civil Code. Notice to the commissioner shall comply with Section
39 1798.82 of the Civil Code.

1 792.155. A licensee that, pursuant to an insurance transaction
2 with a consumer, takes title to a device containing personal
3 information of the consumer, shall delete the consumer's personal
4 information within a reasonable period of time, and shall not further
5 process or share personal information obtained in this manner.
6 This section does not require the deletion of privileged information.

7 792.160. (a) A licensee shall provide a clear and conspicuous
8 privacy notice to a consumer that describes the licensee's privacy
9 practices. The privacy notice shall be provided within a reasonable
10 time after the licensee, directly or through a third-party service
11 provider, first collects, processes, or shares the consumer's personal
12 or publicly available information, except that a privacy notice shall
13 not unreasonably be delayed if establishing the consumer
14 relationship is not at the consumer's election or upon agreement
15 of the consumer in order to expedite the insurance transaction.
16 Notwithstanding this requirement, a privacy notice shall not be
17 required in any of the following circumstances:

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

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

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

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

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

39 (c) (1) A licensee shall provide an updated privacy notice to
40 each consumer with whom the licensee has an ongoing business

1 relationship when the privacy practices of the licensee change, or
2 the substantive content of the preceding privacy notice is no longer
3 accurate. The licensee shall do both of the following: ~~the following~~ following:

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

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

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

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

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

22 792.165. (a) A privacy notice required pursuant to Section
23 792.160 shall state in writing all of the following:

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

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

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

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

34 (5) That the licensee and its third-party service providers have
35 not and will not sell the consumer's personal information as that
36 term is defined in this article. However, the licensee and its
37 third-party service providers may share the consumer's personal
38 information for purposes of the insurance transaction, or with the
39 consent of the consumer.

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

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

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

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

15 *(10) A statement of the rights of the consumer to receive notice*
16 *regarding an adverse underwriting decision, including the reasons*
17 *for the adverse underwriting decision, the specific items of*
18 *information underlying the adverse underwriting decision, and*
19 *the sources of that information.*

20 ~~(10)~~

21 *(11) A statement of the rights of nonretaliation established*
22 *pursuant to Section 792.195.*

23 ~~(11)~~

24 *(12) A statement of the consumer's right to provide consent*
25 *before the consumer's personal information may be processed in*
26 *a jurisdiction outside of the United States or its territories.*

27 ~~(12)~~

28 *(13) Additional items that the commissioner specifies in*
29 *regulation.*

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

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

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

39 (3) That once the consumer consents to the sharing, the
40 consumer may revoke the consent at any time and that the licensee

1 will no longer share the consumer's personal information for those
2 purposes.

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

6 792.170. (a) In addition to the privacy notice required pursuant
7 to Section 792.160, a licensee shall provide to each consumer with
8 whom the licensee has an ongoing business relationship a privacy
9 rights notice describing the consumer's rights pursuant to this
10 article.

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

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

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

16 (B) Request correction or amendment of inaccurate or
17 incomplete personal information about ~~themselves~~ *the consumer*.

18 (C) Request deletion of personal information that is not needed
19 for completion of the insurance transaction requested by the
20 consumer.

21 (D) Not to have the consumer's personal information used for
22 marketing or research purposes, unless the consumer has provided
23 consent.

24 (E) Be informed that the consumer may consent to the
25 processing of the consumer's personal information by licensees.
26 If the consumer chooses to consent, any use of the consumer's
27 personal information by the licensee shall be limited to the purposes
28 ~~of the consumer's insurance transaction~~ *specified in the consent*
29 *executed by the consumer*.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 ~~(4)~~

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

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

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

27 (f) In addition to providing individual notices to consumers, a
28 licensee shall prominently post and make available the notices
29 required pursuant to this article on its internet website home page
30 if the licensee maintains an internet website. The licensee shall
31 design its internet website home page so that all of the following
32 are true:

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

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

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

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

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

6 (g) Notices and communications to consumers shall be easy to
7 read, understandable to consumers, and avoid technical or legal
8 jargon.

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

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

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

16 (C) Be accessible to consumers with disabilities. For notices
17 provided online, the licensee shall follow current generally
18 recognized industry standards, such as the Web Content
19 Accessibility Guidelines, version 2.1, from the World Wide Web
20 Consortium, or the most recent version. Licensees shall take
21 reasonable steps to ensure that consumers with disabilities may
22 access the notices in an alternative format.

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

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

30 (1) USPS mail sent to that address by the licensee has been
31 returned as undeliverable and subsequent attempts by the licensee
32 to obtain a current valid address for the consumer have been
33 unsuccessful.

34 (2) The consumer's email address in the licensee's records is
35 returned as undeliverable and subsequent attempts by the licensee
36 to obtain a current valid email address for the consumer have been
37 unsuccessful.

38 792.180. (a) A consumer may submit a verifiable request to
39 a licensee for access to the consumer's personal and publicly

1 available information in the possession of the licensee or its
2 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 all of the following:

9 (A) *Provide the consumer with a copy of any items of personal*
10 *information relating to the consumer.*

11 (B) *If the consumer is not the source of an item of personal*
12 *information provided to the consumer pursuant to this subdivision,*
13 *identify the source of the item of personal information.*

14 ~~(A)~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) Notwithstanding paragraph (2):

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

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

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

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

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

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

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

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

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

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

(d) The commissioner may assist a consumer with obtaining information about an adverse underwriting decision affecting the

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

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

13 (1) The termination of an individual policy form on a classwide
14 or statewide basis, except termination of a title insurance policy
15 form.

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

18 (3) If requested by a consumer, any other insurer-initiated
19 increase in premium on an insurance product purchased by a
20 consumer.

21 792.195. A licensee or a third-party service provider shall not
22 retaliate against a consumer because the consumer exercised or
23 attempted to exercise ~~their~~ *the consumer's* rights pursuant to this
24 article. A licensee or a third-party service provider retaliates against
25 a consumer if the licensee or third-party service provider, as a
26 result of a consumer's privacy choices, does any of the following:

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

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

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

36 (d) Charges a different rate or premium to the consumer,
37 provides a different insurance product, refuses to write insurance
38 coverage for the consumer, or denies a claim under an insurance
39 product purchased by the consumer.

1 792.200. (a) A licensee or third-party service provider shall
2 not prepare or request an investigative consumer report about a
3 consumer in connection with an insurance transaction involving
4 an application for insurance, policy renewal, policy reinstatement,
5 or change in insurance benefits unless the licensee or third-party
6 service provider informs the consumer in writing before the report
7 preparation that the consumer:

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

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

13 (b) If a licensee uses a third-party service provider to obtain an
14 investigative consumer report, the written contract between the
15 licensee and the third-party service provider shall require the
16 third-party service provider to do both of the following:

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

18 (2) Not use personal information provided to the third-party
19 service provider by the licensee or obtained by the third-party
20 service provider in its investigation of the consumer other than to
21 fulfill the purpose of the contract with the licensee.

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

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

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

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

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

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

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

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

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

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

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

37 (d) A person subject to an order of the commissioner pursuant
38 to subdivision (c) or a person whose rights pursuant to this article
39 were allegedly violated may obtain a review of an order or report
40 of the commissioner by submitting a filing in a court of competent

1 jurisdiction pursuant to Section 1094.5 of the Code of Civil
2 Procedure within 30 days from the date of the service of the order
3 or report. The court shall have jurisdiction to make and enter a
4 decree modifying, affirming, or reversing an order or report of the
5 commissioner, in whole or in part.

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (2) May receive documents, data, materials, or information,
36 including otherwise confidential and privileged documents, data,
37 materials, or information, from the National Association of
38 Insurance Commissioners, its affiliates, or subsidiaries and from
39 regulatory and law enforcement officials of other foreign or
40 domestic jurisdictions, and shall maintain as confidential or

1 privileged the documents, data, materials, or information received
2 with notice or the understanding that it is confidential or privileged
3 pursuant to the laws of the jurisdiction that is the source of the
4 documents, data, materials, or information.

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

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

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

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

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

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

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

35 (e) This article does not prohibit the commissioner from
36 exercising discretion, pursuant to applicable laws, to release final,
37 adjudicated actions that are open to public inspection to a database
38 or other clearinghouse service maintained by the National
39 Association of Insurance Commissioners, its affiliates, or
40 subsidiaries.

1 792.220. (a) Notwithstanding any other law, a licensee or
2 third-party service provider shall maintain sufficient evidence in
3 its records of compliance with this article for the calendar year in
4 which the activities governed by this article occurred and the three
5 calendar years thereafter.

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

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

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

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

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

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

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

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

37 792.230. (a) A cause of action for defamation, invasion of
38 privacy, or negligence shall not arise against either of the
39 following:

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

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

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

8 792.235. A person who knowingly and willfully obtains
9 information about a consumer from a licensee or third-party service
10 provider under false pretenses is guilty of a misdemeanor and shall
11 be assessed a fine of up to fifty thousand dollars (\$50,000),
12 imprisoned for not more than one year in a county jail, or both.

13 792.240. The provisions of this article are severable. If any
14 provision of this article or its application is held invalid, that
15 invalidity shall not affect other provisions or applications that can
16 be given effect without the invalid provision or application.

17 792.245. (a) This article preempts and supersedes all state
18 laws and portions of state laws that are inconsistent with this article.

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

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

23 792.250. The commissioner may issue rules, regulations, and
24 orders as the commissioner deems convenient to carry out this
25 article. The rules or regulations promulgated pursuant to this article
26 shall not be subject to the Administrative Procedure Act (Chapter
27 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
28 Title 2 of the Government Code).

29 792.255. A licensee has five years from the operative date of
30 this article to implement Section 792.130, except that a licensee
31 shall comply with subdivision (c) of Section 792.130 on the
32 operative date of this article.

33 SEC. 3. The Legislature finds and declares that Section 2 of
34 this act, which adds Sections 792.115, 792.130, 792.190, and
35 792.215 to the Insurance Code, imposes a limitation on the public's
36 right of access to the meetings of public bodies or the writings of
37 public officials and agencies within the meaning of Section 3 of
38 Article I of the California Constitution. Pursuant to that
39 constitutional provision, the Legislature makes the following

1 findings to demonstrate the interest protected by this limitation
2 and the need for protecting that interest:

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

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

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