

Assembly Bill No. 2588

Passed the Assembly August 29, 2016

Chief Clerk of the Assembly

Passed the Senate August 23, 2016

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 1722, 1751.5, 14000, 14001, 14020, 14022, 14022.5, 14024, 14025, 14028, 14031, 14032, 14039, 14042, 14050, 14080, 14090.1, 14097, and 14099 of, to amend and repeal Sections 14030 and 14037 of, to amend, repeal, and add Sections 14029, 14038, 14040, 14061, 14063, and 14064 of, to add Sections 14025.1, 14079, and 14090.3 to, to add and repeal Section 14097.5 of, to repeal Section 14027 of, and to repeal and add Sections 14010, 14021, 14026, and 14078 of, the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2588, Chu. Independent insurance adjusters.

Existing law, the Insurance Adjuster Act, sets forth various requirements with respect to operation as an insurance adjuster in this state, including, but not limited to, that the person be licensed, licensing qualifications and application requirements, continuing education and reporting requirements, codes of conduct, disciplinary actions, and nonresident and emergency licenses. The act defines the term “insurance adjuster” to include a person, other than a private investigator, who, for any consideration whatsoever, engages in business or accepts employment to furnish, or agrees to make, or makes, any investigation for the purpose of obtaining, information in the course of adjusting or otherwise participating in the disposal of, any claim under or in connection with a policy of insurance on behalf of an insurer or engages in soliciting insurance adjustment business. Any person who knowingly falsifies the fingerprints or photographs submitted as part of the application process is guilty of a felony, and any person who violates any other provision governing insurance adjusters is guilty of a misdemeanor punishable by a fine not to exceed \$500, or by imprisonment in the county jail not to exceed one year, or by both that fine and imprisonment. Existing law prescribes a schedule for various insurance adjuster application, license, and license renewal fees.

This bill would revise and recast the above provisions by, among other things, changing the name of the act to the Independent Insurance Adjuster Act and redefining an “independent insurance

adjuster” to mean an individual, a business entity, an independent contractor, or an employee of a contractor who contracts for compensation with insurers, a person whose tax treatment by the insurers is consistent with that of an independent contractor rather than as an employee, and a person who investigates, negotiates, or settles property and casualty claims for insurers. The bill would expand the categories of persons exempt from the act to include, among others, an individual who is employed to investigate suspected fraudulent insurance claims but who does not adjust losses or determine claims payments, and a person who solely performs administrative or clerical duties, or any combination thereof, and who does not investigate, negotiate, or settle claims with policyholders, claimants, or their legal representatives. The bill would impose additional information and educational requirements on applicants and would impose additional administrative and code of conduct requirements on licensees. The bill would require a person who fails to meet continuing education and reporting requirements, and who has not been granted an extension of time by the commissioner to comply, to have his or her license placed on inactive status, as specified, and would prohibit a licensee on inactive status from performing specified activities. The bill would revise the provisions relating to nonresident and emergency licenses with regards to qualifying for those licenses. The bill would also create an apprentice independent insurance adjuster license to facilitate the experience, education, and training necessary to ensure reasonable competency in the responsibilities and duties of an independent insurance adjuster and would set forth the various terms and conditions of the license, including an application fee to be fixed at up to \$80. The bill would make an apprentice independent insurance adjuster subject to a felony conviction if he or she knowingly falsifies the fingerprints or photograph submitted as part of his or her application for a license. The bill would impose a 3-year reporting requirement on the Department of Insurance. The bill would also make conforming changes. Because the bill would create a new crime, it would impose a state-mandated local program. The bill would also change various independent insurance adjuster application, license, and renewal fees, as prescribed.

This bill also would incorporate additional changes in Sections 1722 and 1751.5 of the Insurance Code proposed by SB 488, to

be operative if SB 488 and this bill are both enacted and become effective on or before January 1, 2017, and this bill is enacted last.

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.

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

SECTION 1. Section 1722 of the Insurance Code is amended to read:

1722. If a natural person while licensed pursuant to the provisions of this chapter or Chapter 6 (commencing with Section 1760), Chapter 7 (commencing with Section 1800), or Chapter 8 (commencing with Section 1831) of this part, Part 5 (commencing with Section 12140) of Division 2, or Chapter 1 (commencing with Section 14000) of Division 5 enters the military service of the United States and is in that service at a time prescribed for the filing of a renewal application, the filing of that application is waived, and the license held by that licensee at the time of his or her entry into military service shall remain in force during the period of that military service and until the end of the license year in which he or she is released from that service but not for less than six months after that release. During that period, that person may secure a license of the type held by him or her on his or her entry into military service upon the filing of an application and paying the fee therefor without the necessity of taking any examination or paying any penalty.

SEC. 1.5. Section 1722 of the Insurance Code is amended to read:

1722. If a natural person while licensed pursuant to the provisions of this chapter or Chapter 6 (commencing with Section 1760), Chapter 7 (commencing with Section 1800), or Chapter 8 (commencing with Section 1831) of this part, Part 5 (commencing with Section 12140) of Division 2, or Chapter 1 (commencing with Section 14000) or Chapter 2 (commencing with Section 15000) of Division 5 enters the military service of the United States and is in that service at a time prescribed for the filing of a renewal

application, the filing of that application is waived, and the license held by that licensee at the time of his or her entry into military service shall remain in force during the period of that military service and until the end of the license year in which he or she is released from that service but not for less than six months after that release. During that period, that person may secure a license of the type held by him or her on his or her entry into military service upon the filing of an application and paying the fee therefor without the necessity of taking an examination or paying a penalty.

SEC. 2. Section 1751.5 of the Insurance Code is amended to read:

1751.5. The fees required by this chapter and by Chapter 6 (commencing with Section 1760), Chapter 7 (commencing with Section 1800), and Chapter 8 (commencing with Section 1831) of this part and by Chapter 1 (commencing with Section 14000) of Division 5 are filing fees, no portion of which shall be refunded whether or not the application is acted upon or the examination is taken.

SEC. 2.5. Section 1751.5 of the Insurance Code is amended to read:

1751.5. The fees required by this chapter and by Chapter 6 (commencing with Section 1760), Chapter 7 (commencing with Section 1800), and Chapter 8 (commencing with Section 1831) of this part and by Chapter 1 (commencing with Section 14000) and Chapter 2 (commencing with Section 15000) of Division 5 are filing fees, no portion of which shall be refunded whether or not the application is acted upon or the examination is taken.

SEC. 3. Section 14000 of the Insurance Code is amended to read:

14000. This chapter may be cited as the Independent Insurance Adjuster Act.

SEC. 4. Section 14001 of the Insurance Code is amended to read:

14001. As used in this chapter, the following terms have the following meanings:

(a) "Catastrophe" means an event that results in a large number of deaths or injuries, causes extensive damage or destruction of facilities that provide and sustain human needs, produces an overwhelming demand on state and local response resources and mechanisms, causes a severe long-term effect on general economic

activity, or severely affects state, local, and private sector capabilities to begin and sustain response activities.

(b) “Commissioner” means the Insurance Commissioner.

(c) “Department” means the Department of Insurance.

(d) “Fingerprints” means an impression of the lines on the finger taken for the purposes of identification.

(e) “Home state” means the District of Columbia and any state or territory of the United States in which an independent insurance adjuster maintains his, her, or its principal place of residence or business and is licensed to act as a resident independent insurance adjuster. If the resident state does not license independent insurance adjusters for the line of authority sought, the independent insurance adjuster shall designate as his, her, or its home state either California or any state in which the independent insurance adjuster is licensed following an examination, provided that the independent insurance adjuster is licensed and in good standing in that state.

(f) “Individual” means a natural person.

(g) “Licensee” means a person licensed under this chapter.

(h) “Manager” means the individual under whose direction, control, charge, or management the business of a licensee is operated.

(i) “Nonresident” means a person who is not a resident of California at the time of the performance of the act referred to in Section 14071.

(j) “Person” includes any individual, firm, company, association, organization, partnership, limited liability company, and corporation.

SEC. 5. Section 14010 of the Insurance Code is repealed.

SEC. 6. Section 14010 is added to the Insurance Code, to read:

14010. The commissioner shall administer and enforce the provisions of this chapter.

SEC. 7. Section 14020 of the Insurance Code is amended to read:

14020. (a) A person shall not engage in a business regulated by this chapter, or act or assume to act as, or represent himself or herself to be, a licensee unless he or she is licensed as an independent insurance adjuster in accordance with this chapter.

(b) A person shall not falsely represent that he or she is employed by a licensee.

SEC. 8. Section 14021 of the Insurance Code is repealed.

SEC. 9. Section 14021 is added to the Insurance Code, to read:

14021. An independent insurance adjuster, for purposes of this chapter, is to meet all of the following requirements:

(a) He or she is an individual, a business entity, an independent contractor, or an employee of a contractor, who contracts for compensation with insurers.

(b) He or she is a person whose tax treatment by the insurers is consistent with that of an independent contractor rather than an employee, as defined in Section 3121 of Title 26 of the United States Code.

(c) He or she is a person who investigates, negotiates, or settles property and casualty claims for insurers.

SEC. 10. Section 14022 of the Insurance Code is amended to read:

14022. This chapter does not apply to any of the following:

(a) A person employed exclusively and regularly by one employer in connection with the affairs of that employer only and where there exists an employer-employee relationship. This subdivision shall become inoperative on January 1, 2018.

(b) An officer or employee of the United States of America, or of this state or a political subdivision thereof, while that officer or employee is engaged in the performance of his or her official duties.

(c) A person engaged exclusively in the business of obtaining and furnishing information as to the financial rating of persons.

(d) A charitable philanthropic society or association duly incorporated under the laws of this state, which is organized and maintained for the public good and not for private profit.

(e) An attorney at law admitted to practice in California, when acting in his or her professional capacity as an attorney.

(f) A licensed collection agency or an employee thereof while acting within the scope of his or her employment, while making an investigation incidental to the business of the agency, including an investigation of the location of a debtor or his or her property where the contract with an assignor creditor is for the collection of claims owed or due or asserted to be owed or due or the equivalent thereof.

(g) An officer, director, manager, or employee of an authorized insurer, surplus line insurer, a risk retention group, or an attorney-in-fact of a reciprocal insurer.

(h) A licensed insurance agent or broker or managing general agent of the insurer to whom claim authority has been granted by the insurer.

(i) The legal owner of personal property that has been sold under a conditional sales agreement or a mortgagee under the terms of a chattel mortgage.

(j) Any bank subject to the jurisdiction of the Commissioner of Business Oversight under Division 1 (commencing with Section 99) of the Financial Code or the Comptroller of the Currency of the United States.

(k) A person employed solely to obtain facts surrounding a claim or to furnish technical assistance to a licensed independent insurance adjuster.

(l) Any building contractor, engineer, technical expert, or other person who is engaged by an insurer or licensed independent insurance adjuster to provide an expert or professional evaluation of the extent, cause, or origin of damage to the insured property, but who does not otherwise participate in the process of adjusting claims.

(m) An individual who is employed to investigate suspected fraudulent insurance claims but who does not adjust losses or determine claims payments.

(n) A person who solely performs administrative or clerical duties, or any combination thereof, and who does not investigate, negotiate, or settle claims with policyholders, claimants, or their legal representative.

(o) A licensed health care provider or its employees who provide managed care if the services do not include the determination of compensability.

(p) A managed care organization or any of its employees who provide managed care services if the services do not include the determination of compensability.

(q) A person who settles only reinsurance or subrogation claims.

(r) A United States manager of the United States branch of an alien insurer.

(s) An individual employee, under a self-insured arrangement, who adjusts claims on behalf of his or her employer.

(t) An individual or business entity that investigates, negotiates, or settles workers' compensation claims.

(u) An individual who, in regards to portable electronics insurance claims, collects claims information from, or furnishes claims information to, insureds or claimants, and who conducts data entry, including entering data into an automated claims adjudication system, provided that the individual is an employee of a licensed independent insurance adjuster or its affiliate where no more than 25 of those persons are under the supervision of one licensed independent insurance adjuster or licensed producer.

SEC. 11. Section 14022.5 of the Insurance Code is amended to read:

14022.5. (a) In the event of an emergency situation as declared by the commissioner, claims arising out of the emergency, catastrophe, disaster, or other similar occurrence may be adjusted by a nonlicensed independent insurance adjuster upon registration with the commissioner if all of the following requirements are met:

(1) The work performed by the nonlicensed independent insurance adjuster is under the active direction, control, charge, or management of a licensed independent insurance adjuster or an insurer authorized to do business in this state.

(2) Registration with the commissioner is accomplished within five working days from the date on which the nonlicensed independent insurance adjuster commences the claims adjusting activity in connection with the emergency situation.

(b) “Registration,” within the meaning of this section, means a written letter to the commissioner, submitted by the supervising licensed independent insurance adjuster or admitted insurer, naming the nonlicensed independent insurance adjusters, identifying their independent insurance adjuster licenses held in other jurisdictions, and stating when their claims adjusting activity commenced.

(c) Registration under this section is valid for a period of 180 days from the date of the registration letter. Before the lapse of that period, the commissioner may grant further 180-day extensions as he or she deems appropriate upon written request from the supervising licensed independent insurance adjuster or the admitted insurer.

SEC. 12. Section 14024 of the Insurance Code is amended to read:

14024. (a) An individual application shall be verified and shall include all of the following:

(1) The full legal name and business, residence, and mailing addresses of the applicant.

(2) The name under which the applicant intends to do business.

(3) The applicant's birth date and social security number.

(4) The application fees set forth in Section 14097.

(5) Identify whether the application is for an independent insurance adjuster license or a crop insurance adjuster license, as set forth in Section 14085.

(6) Two photographs, no more than six months old, of the applicant, of a type prescribed by the commissioner, and one classifiable set of his or her fingerprints submitted with a live scan fingerprinting service provider certified by the Department of Justice.

(7) A verified statement of his or her experience qualifications, unless applying for an apprentice independent insurance adjuster license.

(8) Other information, evidence, statements, or documents as may be required by the commissioner.

(b) A business entity application shall be verified and shall include all of the following:

(1) The full legal name and residence address of each of its partners, officers, and directors, and its manager.

(2) The name under which the applicant intends to do business.

(3) That the applicant paid the fees set forth in Section 14097.

(4) A statement as to the classifications under which the applicant desires to be qualified.

(5) Other information, evidence, statements, or documents as may be required by the commissioner.

SEC. 13. Section 14025 of the Insurance Code is amended to read:

14025. Before a license is granted, the applicant shall meet all of the following requirements:

(a) Be at least 18 years of age.

(b) Not have committed acts or crimes constituting grounds for denial of licensure under Sections 1668 and 1669.

(c) Shall have had either of the following:

(1) At least two years of experience in adjusting insurance claims in any state or the equivalent thereof as determined by the commissioner, unless applying for an apprentice independent insurance adjuster license.

(2) One year as a licensed apprentice independent insurance adjuster, which is considered the equivalent of two years of experience in adjusting claims.

(d) Any of the following:

(1) Having completed a 20-hour prelicensing education course of study.

(2) A nonresident applicant currently licensed as a home state independent insurance adjuster in another state who has met that state's prelicensing education requirements is exempt from completing the prelicensing education requirement.

(3) A resident applicant currently listed under a licensed independent insurance adjuster's license as an unlicensed employee is exempt from completing the prelicensing education requirement. This exemption shall be in effect only until January 1, 2019.

(e) Successfully passed the examination for the independent insurance adjuster license, unless he or she qualifies for an exemption in Section 14026.

(f) Comply with those other qualifications that the commissioner may require by regulation.

SEC. 14. Section 14025.1 is added to the Insurance Code, to read:

14025.1. (a) The apprentice independent insurance adjuster license is a license to facilitate the experience, education, and training necessary to ensure reasonable competency in the responsibilities and duties of an independent insurance adjuster.

(b) An individual applying for an apprentice independent insurance adjuster license shall submit an application in a format prescribed by the commissioner and shall declare under penalty of suspension, revocation, or refusal of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the commissioner shall determine that the individual meets all of the following:

(1) Is at least 18 years of age.

(2) Is a resident of California or is a resident of another state and has designated California as his or her home state.

(3) Has a business or mailing address in California for the acceptance of service of process.

(4) Has not committed any act that is a ground for suspension, revocation, or denial of licensure as set forth in Sections 1668, 1668.1, and 1669.

(5) Has paid the fees set forth in subdivision (h) of Section 14097.

(c) The apprentice independent insurance adjuster license shall be subject to the following terms and conditions:

(1) The applicant shall submit, with the apprentice independent insurance adjuster application, an attestation from a licensed independent insurance adjuster certifying that the apprentice will be subject to training, direction, and control by the licensed independent insurance adjuster and further certifying that the licensed independent insurance adjuster assumes responsibility for the actions of the apprentice in the apprentice's capacity as an apprentice independent insurance adjuster.

(2) The apprentice independent insurance adjuster is only authorized to adjust claims in California.

(3) The apprentice independent insurance adjuster is restricted to participation in the investigation, settlement, and negotiation of claims subject to the review and final determination of the claim by a supervising licensed independent insurance adjuster.

(4) The apprentice independent insurance adjuster shall not be required to take and successfully complete the independent insurance adjuster examination to adjust claims as an apprentice independent insurance adjuster. At any time during the apprenticeship, the apprentice independent insurance adjuster may choose to take the examination. If the individual takes and successfully completes the independent insurance adjuster exam, the apprentice independent insurance adjuster license shall automatically terminate and an independent insurance adjuster license shall be issued to that individual in its place.

(5) The apprentice independent insurance adjuster license is valid for a period not to exceed 12 months and is nonrenewable.

(6) The licensee shall be subject to suspension, revocation, or denial pursuant to Sections 1668, 1668.1, and 1669.

(7) The applicant shall submit two photographs, no more than six months old, of the applicant, of a type prescribed by the commissioner, and one classifiable set of his or her fingerprints submitted with a live scan fingerprinting service provider certified by the Department of Justice.

SEC. 15. Section 14026 of the Insurance Code is repealed.

SEC. 16. Section 14026 is added to the Insurance Code, to read:

14026. (a) An applicant for an independent insurance adjuster license, unless applying for an apprentice independent insurance adjuster license or crop insurance adjuster license, shall pass a written examination.

(1) The examination shall test the knowledge of the applicant concerning the duties and responsibilities of an independent insurance adjuster and this code.

(2) An applicant applying for an examination shall remit a nonrefundable fee as prescribed by the commissioner in Section 14097.

(b) An individual who applies for an independent insurance adjuster license in California who holds a home state license in another state as an independent insurance adjuster shall not be required to complete the examination if he or she successfully passed an examination as a condition of receiving an independent insurance adjuster license in his or her home state. This exemption applies to individuals who are currently licensed in their home state or if the home state license expired and the application is received by the commissioner within 90 days of expiration.

(c) An individual who applies for an apprentice independent insurance adjuster license pursuant to Section 14025.1, and who adjusts claims in that capacity, shall not be required to take and successfully complete the independent insurance adjuster examination.

SEC. 17. Section 14027 of the Insurance Code is repealed.

SEC. 18. Section 14028 of the Insurance Code is amended to read:

14028. After a hearing, the commissioner may deny a license unless the application makes a showing satisfactory to the commissioner that the applicant, if an individual, has not, or if the applicant is a person other than an individual, that its manager and each of its officers and partners have not done any of the following:

(a) Been refused a license under this chapter or had a license revoked.

(b) Been an officer, partner, or manager of any person who has been refused a license under this chapter or whose license has been revoked.

(c) While unlicensed committed, or aided and abetted the commission of, any act for which a license is required by this chapter.

(d) Committed any act or crime constituting grounds for denial of licensure under Section 1668.

SEC. 19. Section 14029 of the Insurance Code is amended to read:

14029. (a) The business of each licensee shall be operated under the active direction, control, charge, or management of the licensee, if the licensee is qualified, or the person who has qualified to act as the licensee's manager, if the licensee is not qualified.

(b) No person shall act as a manager of a licensee until he or she has complied with each of the following:

(1) Demonstrated his or her qualifications by a written or oral examination, or a combination of both, if required by the commissioner.

(2) Made a satisfactory showing to the commissioner that he or she has the qualifications prescribed by Section 14025 and that none of the facts stated in Section 14028 or 14028.5 exist as to him or her.

(c) If the manager, who has qualified as provided in this section, ceases for any reason whatsoever to be connected with the licensee to whom the license is issued, the licensee shall notify the commissioner in writing 30 days from the cessation. If notice is given, the license shall remain in force for a reasonable length of time to be determined by the rules of the commissioner pending the qualifications, as provided in this chapter, of another manager. If the licensee fails to notify the commissioner within the 30-day period, his or her license shall be subject to suspension or revocation and may be reinstated only upon the filing of an application for reinstatement, payment of the reinstatement fee, if any is due, and the qualification of a manager as provided herein.

(d) Every manager shall renew his or her authority by satisfying the requirements of Article 8 (commencing with Section 14090).

(e) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 20. Section 14029 is added to the Insurance Code, to read:

14029. (a) Each organization licensed under this chapter shall designate an individual also licensed as an independent insurance adjuster to be responsible for the organization's compliance with state law.

(b) This section shall become operative on January 1, 2018.

SEC. 21. Section 14030 of the Insurance Code is amended to read:

14030. (a) Whenever the individual on the basis of whose qualifications a license under this chapter has been obtained ceases to be connected with the licensee for any reason whatever, the business may be carried on for a temporary period and under the terms and conditions as the commissioner shall provide by regulation.

(b) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 22. Section 14031 of the Insurance Code is amended to read:

14031. A hearing held under this chapter to determine whether an application for a license should be granted shall be conducted in accordance with Chapter 5 (commencing with Section 11501) of Part 1 of Division 3 of Title 2 of the Government Code, and the commissioner shall have all of the powers granted therein.

SEC. 23. Section 14032 of the Insurance Code is amended to read:

14032. The form and content of the license shall be determined by the commissioner.

SEC. 24. Section 14037 of the Insurance Code is amended to read:

14037. (a) A licensee shall at all times be legally responsible for the good conduct in the business of each of his or her employees or agents, including his or her manager.

(b) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 25. Section 14038 of the Insurance Code is amended to read:

14038. (a) Any licensee or officer, director, partner, or manager of a licensee may divulge to any law enforcement officer or district attorney, or to his or her representative, any information he or she

may acquire as to any criminal offense. However, he or she shall not divulge to any other person any information acquired by him or her, except as he or she may be required by law to do so or as is necessary to effectuate or enforce a transaction, except at the direction of the employer or client for whom the information was obtained and only if authorized by the insured.

(b) A licensee or officer, director, partner, manager, or employee of a licensee shall not knowingly make any false report to his or her employer or client for whom information was being obtained.

(c) A written report shall not be submitted to a client except by the licensee, qualifying manager, or a person authorized by one or either of them, and the person submitting the report shall exercise diligence in ascertaining whether or not the facts and information in that report are true and correct.

(d) A licensee or officer, director, partner, manager, or employee of a licensee shall not use a badge in connection with the official activities of the licensee's business.

(e) A licensee or officer, director, partner, manager, or employee of a licensee, shall not use a title, wear a uniform, use an insignia, or use an identification card, or make any statement with the intent to give an impression that he or she is connected in any way with the federal government, a state government, or any political subdivision of a state government.

(f) A licensee or officer, director, partner, manager, or employee of a licensee, shall not enter any private building or portion thereof without the consent of the owner or of the person in legal possession thereof.

(g) A licensee shall not appear as an assignee party in any proceeding involving claim and delivery, replevin, or other possessory action, action to foreclose a chattel mortgage, mechanic's lien, materialman's lien, or any other lien.

(h) A licensee shall not permit an employee or agent in his or her own name to advertise, engage clients, furnish reports, or present bills to clients, or in any manner whatever to conduct business for which a license is required under this chapter. All business of the licensee shall be conducted in either the name of and under the control of the licensee or the licensee's employer, who is a licensed independent insurance adjuster who meets the bond requirement described in Section 14050.

(i) A licensee acting as an independent automobile damage appraiser or adjuster or as an automobile insurance claims adjuster, appraiser, or representative shall not receive any financial benefit from an automobile repair facility. “Financial benefit” means the receiving of any commission or gratuity, discount on repair costs, free repairs, employment by a repair facility, or possession of more than 3 percent direct ownership in an automobile repair facility located in this state.

(j) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 26. Section 14038 is added to the Insurance Code, to read:

14038. (a) Any licensee or officer, director, or partner of a licensee may divulge to any law enforcement officer or district attorney, or to his or her representative, any information he or she may acquire as to any criminal offense. However, he or she shall not divulge to any other person any information acquired by him or her, except as he or she may be required by law to do so or as is necessary to effectuate or enforce a transaction, except at the direction of the employer or client for whom the information was obtained and only if authorized by the insured.

(b) A licensee or officer, director, or partner of a licensee shall not knowingly make any false report to his or her employer or client for whom information was being obtained.

(c) A written report shall not be submitted to a client except by the licensee or his or her designee. The licensee shall exercise diligence in ascertaining whether or not the facts and information in that report are true and correct.

(d) A licensee or officer, director, or partner of a licensee shall not use a badge in connection with the official activities of the licensee’s business.

(e) A licensee or officer, director, or partner of a licensee shall not use a title, wear a uniform, use an insignia, use an identification card, or make any statement with the intent to give an impression that he or she is connected in any way with the federal government, a state government, or any political subdivision of a state government.

(f) A licensee or officer, director, or partner of a licensee shall not enter any private building or portion thereof without the consent of the owner or of the person in legal possession thereof.

(g) A licensee shall not appear as an assignee party in any proceeding involving claim and delivery, replevin, or other possessory action, action to foreclose a chattel mortgage, mechanic's lien, materialman's lien, or any other lien.

(h) A licensee shall not permit an agent in the agent's name to advertise, engage clients, furnish reports, or present bills to clients, or in any manner whatever to conduct business for which a license is required under this chapter. All business of the licensee shall be conducted in either the name of and under the control of the licensee or the licensee's employer, who is a licensed independent insurance adjuster who meets the bond requirement described in Section 14050.

(i) A licensee acting as an independent automobile damage appraiser or adjuster or as an automobile insurance claims adjuster, appraiser, or representative shall not receive any financial benefit from an automobile repair facility. "Financial benefit" means the receiving of any commission or gratuity, discount on repair costs, free repairs, employment by a repair facility, or possession of more than 3 percent direct ownership in an automobile repair facility located in this state.

(j) This section shall become operative on January 1, 2018.

SEC. 27. Section 14039 of the Insurance Code is amended to read:

14039. A person licensed as an independent insurance adjuster shall not do any of the following:

(a) Fail to disclose his or her full financial interest in a contract or agreement executed by him or her for the adjustment of a claim prior to the execution thereof.

(b) Use any misrepresentation to solicit a contract or agreement to adjust a claim.

(c) Solicit or accept remuneration from, or have a financial interest exceeding 3 percent in, any salvage, repair, or other firm that obtains business in connection with any claim that he or she has a contract or agreement to adjust.

SEC. 28. Section 14040 of the Insurance Code is amended to read:

14040. (a) Any badge or cap insignia worn by a person who is a licensee, officer, director, partner, manager, or employee of a licensee shall be of a design approved by the commissioner, and shall bear on its face a distinctive word indicating the name of the licensee and an employee number by which the person may be identified by the licensee.

(b) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 29. Section 14040 is added to the Insurance Code, to read:

14040. (a) Any badge or cap insignia worn by a person who is a licensee, officer, director, or partner of a licensee shall be of a design approved by the commissioner, and shall bear on its face a distinctive word indicating the name of either the licensee or the adjusting firm the licensee represents.

(b) This section shall become operative on January 1, 2018.

SEC. 30. Section 14042 of the Insurance Code is amended to read:

14042. (a) A licensee shall not conduct a business under a fictitious or other business name unless and until he or she has obtained the written authorization of the commissioner to do so.

(b) The commissioner shall not authorize the use of a fictitious or other business name that is so similar to that of a public officer or agency or of that used by another licensee that the public may be confused or misled thereby.

(c) The authorization shall require, as a condition precedent to the use of any fictitious name, that the licensee comply with Section 1724.5.

(d) A licensee desiring to conduct his or her business under more than one fictitious business name shall obtain the authorization of the commissioner in the manner prescribed in this section for the use of that name.

(e) The licensee shall pay a fee of ten dollars (\$10) for each authorization to use an additional fictitious business name and for each change in the use of a fictitious business name. If the original license is issued in a nonfictitious name and authorization is requested to have the license reissued in a fictitious business name, the licensee shall pay a fee of twelve dollars (\$12) for that authorization.

SEC. 31. Section 14050 of the Insurance Code is amended to read:

14050. (a) A license shall not be issued under this chapter unless the applicant files with the commissioner a surety bond executed by a surety company authorized to do business in the state in the sum of two thousand dollars (\$2,000) conditioned for the faithful and honest conduct of business by that applicant. The bond as to its form, execution, and sufficiency of the sureties shall be approved by the commissioner.

(b) A surety bond is not required for an individual licensed as an independent insurance adjuster who adjusts only in the capacity of an employee of a licensed independent insurance adjuster, provided that the employer meets the bond requirement.

SEC. 32. Section 14061 of the Insurance Code is amended to read:

14061. (a) The commissioner may suspend or revoke a license issued under this chapter or may issue a restricted license in accordance with Section 14026.5 if he or she determines that the licensee, or his or her manager, if an individual, or if the licensee is a person other than an individual, that any of its officers, directors, partners, or its manager has done any of the following:

(1) Made any false statement or given any false information in connection with an application for a license or a renewal or reinstatement of a license.

(2) Violated any provisions of this chapter.

(3) Violated any rule of the commissioner adopted pursuant to the authority contained in this chapter.

(4) Been convicted of any crime substantially related to the qualifications, functions, and duties of the holder of the registration or license in question.

(5) Impersonated, or permitted or aided and abetted an employee to impersonate, a law enforcement officer or employee of the United States, or of any state or political subdivision thereof.

(6) Committed or permitted any employee to commit any act, while the license was expired that would be cause for the suspension or revocation of a license, or grounds for the denial of an application for a license.

(7) Willfully failed or refused to render to a client services or a report as agreed between the parties and for which compensation

has been paid or tendered in accordance with the agreement of the parties.

(8) Committed assault, battery, or kidnapping, or used force or violence on any person, without proper justification.

(9) Knowingly violated or advised, encouraged, or assisted the violation of any court order or injunction in the course of business as a licensee.

(10) Acted as a runner or capper for any attorney.

(11) Committed any act that is a ground for denial of an application for license under this chapter.

(12) Purchased, possessed, or transported any tear gas weapon except as authorized by law. A violation of this paragraph may be punished by the suspension of a license for a period to be determined by the commissioner.

(b) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 33. Section 14061 is added to the Insurance Code, to read:

14061. (a) The commissioner may suspend or revoke a license issued under this chapter or may issue a restricted license in accordance with Section 14026.5 if he or she determines that the licensee or if the licensee is a person other than an individual, that any of its officers, directors, partners, or its designated responsible person has done any of the following:

(1) Made any false statement or given any false information in connection with an application for a license or a renewal or reinstatement of a license.

(2) Violated any provisions of this chapter.

(3) Violated any rule of the commissioner adopted pursuant to the authority contained in this chapter.

(4) Been convicted of any crime substantially related to the qualifications, functions, and duties of the holder of the registration or license in question.

(5) Impersonated, or permitted or aided and abetted an employee to impersonate, a law enforcement officer or employee of the United States, or of any state or political subdivision thereof.

(6) Committed or permitted any employee to commit any act, while the license was expired that would be cause for the

suspension or revocation of a license, or grounds for the denial of an application for a license.

(7) Willfully failed or refused to render to a client services or a report as agreed between the parties and for which compensation has been paid or tendered in accordance with the agreement of the parties.

(8) Committed assault, battery, or kidnapping, or used force or violence on any person, without proper justification.

(9) Knowingly violated or advised, encouraged, or assisted the violation of any court order or injunction in the course of business as a licensee.

(10) Acted as a runner or capper for any attorney.

(11) Committed any act that is a ground for denial of an application for license under this chapter.

(12) Purchased, possessed, or transported any tear gas weapon except as authorized by law. A violation of this paragraph may be punished by the suspension of a license for a period to be determined by the commissioner.

(b) This section shall become operative on January 1, 2018.

SEC. 34. Section 14063 of the Insurance Code is amended to read:

14063. (a) The commissioner may suspend or revoke a license issued under this chapter or may issue a restricted license in accordance with Section 14026.5 if the commissioner determines that the licensee, or his or her manager, if an individual, or if the licensee is a person other than an individual, that any of its officers, directors, partners, or its manager has done any of the following:

(1) Used any letterhead, advertisement, or other printed matter, or in any matter whatever represented that he or she is an instrumentality of the federal government, or of a state or any political subdivision thereof.

(2) Used a name different from that under which he or she is currently licensed in any advertisement, solicitation, or contract for business.

(b) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 35. Section 14063 is added to the Insurance Code, to read:

14063. (a) The commissioner may suspend or revoke a license issued under this chapter or may issue a restricted license in accordance with Section 14026.5 if the commissioner determines that the licensee, if an individual, or if the licensee is a person other than an individual, that any of its officers, directors, or partners has done any of the following:

(1) Used any letterhead, advertisement, or other printed matter, or in any matter whatever represented that he or she is an instrumentality of the federal government, or of a state or any political subdivision thereof.

(2) Used a name different from that under which he or she is currently licensed in any advertisement, solicitation, or contract for business.

(b) The section shall become operative on January 1, 2018.

SEC. 36. Section 14064 of the Insurance Code is amended to read:

14064. (a) The commissioner may suspend or revoke a license issued under this chapter or may issue a restricted license in accordance with Section 14026.5 if the commissioner determines that the licensee, or his or her manager, if an individual, or if the licensee is a person other than an individual, that any of its officers, directors, partners, or its manager, has committed any act in the course of the licensee's business constituting dishonesty or fraud.

(b) "Dishonesty or fraud" as used in this section includes, in addition to other acts not specifically enumerated herein, all of the following:

(1) Knowingly making a false statement relating to evidence or information obtained in the course of employment, or knowingly publishing a slander or a libel in the course of business.

(2) Using illegal means in the collection or attempted collection of a debt or obligation.

(3) Manufacture of evidence.

(4) Acceptance of employment adverse to a client or former client relating to a matter with respect to which the licensee has obtained confidential information by reason of or in the course of his or her employment by that client or former client.

(5) Impersonating, or permitting or aiding and abetting an employee to impersonate, a law enforcement officer or employee of the United States, or of any state or political subdivision thereof.

(c) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 37. Section 14064 is added to the Insurance Code, to read:

14064. (a) The commissioner may suspend or revoke a license issued under this chapter or may issue a restricted license in accordance with Section 14026.5 if the commissioner determines that the licensee, if an individual, or if the licensee is a person other than an individual, that any of its officers, directors, partners, or its designated responsible person has committed any act in the course of the licensee's business constituting dishonesty or fraud.

(b) "Dishonesty or fraud" as used in this section includes, in addition to other acts not specifically enumerated herein, all of the following:

(1) Knowingly making a false statement relating to evidence or information obtained in the course of employment, or knowingly publishing a slander or a libel in the course of business.

(2) Using illegal means in the collection or attempted collection of a debt or obligation.

(3) Manufacture of evidence.

(4) Acceptance of employment adverse to a client or former client relating to a matter with respect to which the licensee has obtained confidential information by reason of, or in the course of, his or her employment by that client or former client.

(5) Impersonating, or permitting or aiding and abetting an employee to impersonate, a law enforcement officer or employee of the United States, or of any state or political subdivision thereof.

(c) This section shall become operative on January 1, 2018.

SEC. 38. Section 14078 of the Insurance Code is repealed.

SEC. 39. Section 14078 is added to the Insurance Code, to read:

14078. (a) Unless refused licensure pursuant to Sections 14060 to 14065, inclusive, a nonresident person shall receive a nonresident independent insurance adjuster license if all of the following apply:

(1) The applicant is currently licensed in good standing as an independent insurance adjuster in his, her, or its resident or home state.

(2) The applicant paid the fees required by Section 14097.

(3) The applicant submitted to the commissioner the completed application for licensure.

(4) The applicant's home state issues nonresident independent insurance adjuster licenses to residents of California on the same basis.

(b) The commissioner may verify the independent insurance adjuster's licensing status through any appropriate database, including the Producer Database maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries, or may request certification of good standing.

(c) As a condition to the continuation of a nonresident independent insurance adjuster license, the licensee shall maintain a resident independent insurance adjuster license in his, her, or its home state.

(1) The nonresident independent insurance adjuster license issued under this chapter shall terminate and be surrendered immediately to the commissioner if the resident independent insurance adjuster license terminates for any reason, unless the termination is due to the independent insurance adjuster being issued a new resident independent insurance adjuster license in his, her, or its new home state.

(2) The nonresident independent insurance adjuster license shall terminate if the person's home state does not issue nonresident independent insurance adjuster licenses to residents of California on the same basis.

(3) (A) The licensee is required to give notice of resident independent insurance adjuster license termination to any state that issued a nonresident independent insurance adjuster license.

(B) The notice is required to be given within 30 days of the termination date. If the resident independent insurance adjuster license was terminated for change in resident home state, then the notice is required to include both the previous and current addresses.

(4) Maintaining a resident independent insurance adjuster license is required for the nonresident independent insurance adjuster license to remain valid.

SEC. 40. Section 14079 is added to the Insurance Code, to read:

14079. (a) An independent insurance adjuster shall be honest and fair in all communications with the insured, the insurer, and the public.

(b) An independent insurance adjuster shall provide policyholders and claimants with prompt and knowledgeable service and courteous, fair, and objective treatment at all times.

(c) An independent insurance adjuster shall not give legal advice and shall not deal directly with any policyholder or claimant who is represented by legal counsel without the consent of the legal counsel involved.

(d) An independent insurance adjuster shall comply with all local, state, and federal privacy and information security laws.

(e) An independent insurance adjuster shall identify himself or herself as an independent insurance adjuster and, if applicable, shall identify his or her employer when dealing with any policyholder or claimant.

(f) An independent insurance adjuster shall not have any financial interest in any adjustment or shall not acquire for himself, herself, or any person any interest or title in salvage, without first receiving written authority from the principal.

SEC. 41. Section 14080 of the Insurance Code is amended to read:

14080. Any person who knowingly falsifies the fingerprints or photographs submitted under paragraph (6) of subdivision (a) of Section 14024 or paragraph (7) of subdivision (c) of Section 14025.1 is guilty of a felony. Any person who violates any of the other provisions of this chapter is guilty of a misdemeanor punishable by fine not to exceed five hundred dollars (\$500), or by imprisonment in the county jail not to exceed one year, or by both the fine and imprisonment.

SEC. 42. Section 14090.1 of the Insurance Code is amended to read:

14090.1. (a) An individual who holds an independent insurance adjuster license and who is not exempt under subdivision (b) shall satisfactorily complete a minimum of 24 hours, of which three hours are to be in ethics, of continuing education courses pertinent to the duties and responsibilities of an independent insurance adjuster license and shall report the completion of this coursework to the insurance commissioner on a biennial basis in conjunction with his or her license renewal cycle.

(b) This section does not apply to any of the following:

(1) A licensee not licensed for one full year prior to the end of the applicable continuing education biennium.

(2) A licensee holding a nonresident independent insurance adjuster license who has met the continuing education requirements of his or her designated home state.

(3) An individual licensed as an independent insurance adjuster and as a property or casualty broker-agent, pursuant to Section 1625, who has met the continuing education requirements specified in Section 1749.3.

(4) An individual licensed as an apprentice independent insurance adjuster pursuant to Section 14025.1.

SEC. 43. Section 14090.3 is added to the Insurance Code, to read:

14090.3. A person who fails to meet the requirements imposed by Section 14090.1, and who has not been granted an extension of time by the commissioner within which to comply, shall have his or her license placed on inactive status until he or she demonstrates to the satisfaction of the commissioner that he or she has complied with all of the requirements of this article and all other applicable laws. A licensee placed on inactive status may not perform the activities described in Section 1631. If a person cannot perform the requirements of this article due to a disability or inactivity due to special circumstances, the commissioner shall provide a procedure for the person to place his or her license on inactive status until the person demonstrates to the satisfaction of the commissioner that he or she has complied with all of the requirements of this article for the period of disability or inactivity.

SEC. 44. Section 14097 of the Insurance Code is amended to read:

14097. The amount of fees prescribed by this chapter, unless otherwise fixed, is that fixed in the following schedule:

(a) The application fee for the qualifying examination for an original license is fifty dollars (\$50).

(b) The application fee for an original branch office certificate is forty-seven dollars (\$47).

(c) The fee for an original license application is up to eighty dollars (\$80). If the license will expire less than one year after its issuance, then the fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the

date on which the license is issued. The commissioner may, by appropriate regulation, provide for the waiver or refund of the initial license fee where the license is issued less than 45 days before the date on which it will expire.

(d) The renewal fee shall be fixed by the commissioner as follows:

(1) For a license as an independent insurance adjuster, not more than eighty dollars (\$80).

(2) For a branch office certificate, not more than fifty-six dollars (\$56).

(e) The application and license fee for classifications prescribed by the commissioner, in addition to those provided for in this chapter, and the application and license fees for a change in the type of business organization of a licensee, shall be in the amount prescribed by rule and regulation of the commissioner.

(f) The delinquency fee shall be 50 percent of the renewal fee in effect on the date of expiration.

(g) The fee for reexamination of an applicant is fifty dollars (\$50).

(h) The application fee for an apprentice independent insurance adjuster license shall be up to eighty dollars (\$80).

SEC. 45. Section 14097.5 is added to the Insurance Code, to read:

14097.5. (a) On or before March 1, 2019, and for a total of three years thereafter, the department shall report annually to the Legislature all of the following:

(1) The number of individuals licensed pursuant to this chapter.

(2) The implementation costs incurred and the revenues received by the department for licensure of independent insurance adjusters.

(3) The annual projected costs and revenues associated with ongoing licensure and enforcement activities pursuant to this chapter.

(b) (1) A report submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(2) Pursuant to Section 10231.5 of the Government Code, this section is repealed on March 1, 2023.

SEC. 46. Section 14099 of the Insurance Code is amended to read:

14099. Application or license fees shall not be refunded pursuant to Section 1751.5.

SEC. 47. (a) Section 1.5 of this bill incorporates amendments to Section 1722 of the Insurance Code proposed by both this bill and Senate Bill 488. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2017, (2) each bill amends Section 1722 of the Insurance Code, and (3) this bill is enacted after Senate Bill 488, in which case Section 1 of this bill shall not become operative.

(b) Section 2.5 of this bill incorporates amendments to Section 1751.5 of the Insurance Code proposed by both this bill and Senate Bill 488. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2017, (2) each bill amends Section 1751.5 of the Insurance Code, and (3) this bill is enacted after Senate Bill 488, in which case Section 2 of this bill shall not become operative.

SEC. 48. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2016

Governor