



Bulletin 96-08

**STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE**
45 Fremont Street, 21st Floor
San Francisco, CA 94105

September 11, 1996 Bulletin 96-8

TO: All Admitted Insurers, Licensed Producers and Other Interested Persons

SUBJECT: Answers to Commonly Asked Questions On Insurance Code §1725.5

INTRODUCTION

Insurance Code §1725.5 (added to the Insurance Code in 1995 by AB 702, Chapter 217) effective January 1, 1997, requires licensees to include their license numbers on business cards, premium quotes and print advertisements for insurance products distributed exclusively in California. The statute applies only to life and disability insurance analysts, life agents, variable contact agents, insurance agents, insurance brokers, insurance solicitors, surplus line broker, special lines' surplus line brokers, bail agents, bail permittees, bail solicitors, insurance adjusters, public insurance adjusters, motor club agents, and travel insurance agents. The statute does not apply to insurers. This bulletin attempts to answer some of the more commonly asked questions concerning Insurance Code §1725.5

NONRESIDENT LICENSEES

QUESTION: Does Insurance Code §1725.5 apply to holders of a non-resident license?

ANSWER: Yes. Business cards, premium quotations, and print advertisements distributed exclusively in California by non-resident licensees are covered by the statute. The statute does not apply to ads which are aimed at prospective insureds located in at least one other state in addition to California. The statute also does not apply to solicitations made in other states, since such solicitations are governed by the laws of the other states, not by California law.

PRINTING OF LICENSE NUMBER

QUESTION: Does Insurance Code §1725.5 require that the license number be preprinted on business cards, written price quotations and print advertisements distributed in California?

ANSWER: No. Insurance Code §1725.5 permits the license number to be affixed, typed or printed. Therefore, a license number may be added by hand printing it legibly or stamping it. However, the license number must be in at least the same size as any address, phone or fax number appearing on the business card, premium quote or advertisement.

WHICH LICENSE NUMBER TO USE?

QUESTION: If an individual licensee is not employed by an organization licensee (as defined in Insurance Code §1628) but the individual and the organization are both involved in a price quote or advertisement, should the individual's or organization's license number be used?

ANSWER: If two or more licensees issue a joint price quotation or advertisement, and both or all licensees' names appear on the quote or in the advertisement, then the license number of each licensee must be shown. Given the facts of this question, both the individual's license number and the organization's license number would have to be provided.

QUESTION: If, in addition to holding an individual license, a licensee is also an endorsee under an organization license, should the endorsee use his or her individual license number, or the organization's license number?

ANSWER: When acting on behalf of the organization, an individual licensee will comply with the law by using the organization's license number. However, if the individual is not acting under the auspices of the organization with respect to a particular quote or advertisement, then the individual license number should be used.

BROKER FEE AGREEMENTS

QUESTION: Must my license number be included on my broker fee agreements?

ANSWER: Yes. The broker's license number must be typed or printed on or affixed to a broker fee agreement.

YELLOW PAGES

QUESTION: Must the license number be printed in all yellow page listings or advertisements?

ANSWER: It is the Department's interpretation of the statute that yellow page listings are exempt from the license number requirement only if there is no charge for the listing, i.e. so called "free service listings." Any listing for which there is any charge for enhancement or additional information is not exempt. Examples of non-exempt listings and ads include the following:

Display ads of whatever size providing no other information about the agent than the agent's name, address, and phone number.

Column width listings for which an extra fee is paid for enhancement by colored print or background, special font sizes or attributes, or perimeter lines, or which include information regarding the nature of the insurance or services offered to consumers.

Some insurers purchase so called "trademark" listings - display or in-column ads which list multiple producers under the insurer's name and/or logo. These types of ads are exempt from the license number requirement because the statute does not apply to insurers or their ads.

ADVERTISING NOVELTIES

QUESTION: Must the license number be printed on advertising novelties given to clients and potential clients?

ANSWER: Many licensees distribute advertising novelties or promotional items such as calendars, pens, mugs, refrigerator magnets, litter bags, and key chains. The Department's interpretation of Insurance Code §1725.5 is that the term "print advertisements," as used in the statute, refers only to ads

that consist of printed words on paper. The Department does not believe the statute applies when the receiver of a promotional item will primarily use that item for some purpose other than obtaining information about the licensee. Receivers of the advertising novelties mentioned above will mainly utilize those items not to learn about the licensee, but to determine the dates in each month, dispense ink onto paper, contain hot beverages, and hold keys and litter. Consequently, these and other promotion items sharing this feature do not need to display a license number.

INSURERS AND HOLDERS OF OTHER CERTIFICATES OF AUTHORITY

QUESTION: Does Insurance Code §1725.5 apply to insurance companies and insurance company employees?

ANSWER: Insurance Code §1725.5 does not apply to insurance companies. It applies only to life and disability insurance analysts, life agents, variable contact agents, insurance agents, insurance brokers, insurance solicitors, surplus line broker, special lines' surplus line brokers, bail agents, bail permittees, bail solicitors, insurance adjusters, public insurance adjusters, motor club agents, and travel insurance agents. Therefore, general advertising and public relations material created by an insurance company does not need to contain a license number unless one of the above types of licensee's has added his or her name to the advertisement/public relations item before distributing it.

INSURER EMPLOYEES

QUESTION: Does Insurance Code §1725.5 apply to insurance company employees?

ANSWER: It is the Department's interpretation that the statute applies only when an insurer employee is directly involved in transacting insurance. "Transact" is defined in Insurance Code §35, and includes solicitation, execution of an insurance contract, negotiations preliminary to the execution of an insurance contract, and the handling of matters subsequent to and arising out of the execution of an insurance contract. The statute therefor does apply to insurer employees, including company officers, who are licensed agents or adjusters and who deal directly with insureds.

Any questions regarding this bulletin should be addressed to:

Consumer Communications Bureau
California Department of Insurance
300 South Spring Street, 9th Floor
Los Angeles, CA 90013
Telephone: (800) 927-HELP (4357) or
(213) 897-8921 (out-of-state calls and calls within LA local calling area)

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