

**State of California  
Office of Administrative Law**

**In re:**

**Department of Insurance**

**Regulatory Action:**

**Title 10, California Code of Regulations**

**Adopt sections:**

**Amend sections: 2689.8(c)**

**Repeal sections:**

**NOTICE OF APPROVAL OF CHANGES  
WITHOUT REGULATORY EFFECT**

**California Code of Regulations, Title 1,  
Section 100**

**OAL File No. 2010-0923-03 N**

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This rulemaking makes nonsubstantive changes to existing provisions governing the form of opt out notice and opt out methods for disclosure of nonpublic personal financial information by licensees to nonaffiliated third parties.

OAL approves this change without regulatory effect as meeting the requirements of California Code of Regulations, Title 1, section 100.

**Date:** 11/4/2010

  
Gordon R. Young  
Senior Staff Counsel

**For:** SUSAN LAPSLEY  
Director

**Original:** Steve Poizner  
**Copy:** Elizabeth Mohr

**NONSUBSTANTIVE**

STD. 400 (REV. 01-09)

**CALIFORNIA NUMBERS**

NOTICE FILE NUMBER  
**Z-**

REGULATORY ACTION NUMBER

**2010-0923-03N**

EMERGENCY NUMBER

For use by Office of Administrative Law (OAL) only

2010 SEP 23 PM 1:53

OFFICE OF ADMINISTRATIVE LAW

ENDORSED FILED IN THE OFFICE OF

2010 NOV -4 PM 2:17

*Debra Bowen*  
DEBRA BOWEN  
SECRETARY OF STATE

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY  
California Department of Insurance

AGENCY FILE NUMBER (if any)  
REG-2010-00015

**A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)**

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER		PUBLICATION DATE

**B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)**

1a. SUBJECT OF REGULATION(S) Privacy Regulation Amendments to Clarify Producer Responsibilities	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND Section 2689.8(c)
TITLE(S) 10	REPEAL

3. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) _____	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)  
Not applicable.

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

<input type="checkbox"/> Effective 30th day after filing with Secretary of State	<input type="checkbox"/> Effective on filing with Secretary of State	<input checked="" type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify) <b>Not applicable.</b>		

7. CONTACT PERSON Elizabeth Mohr	TELEPHONE NUMBER (415) 538-4112	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) mohre@insurance.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form; that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Adam M. Cole</i>	DATE September 22, 2010
TYPED NAME AND TITLE OF SIGNATORY Adam M. Cole, General Counsel	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

NOV 04 2010

Office of Administrative Law

STATE OF CALIFORNIA  
DEPARTMENT OF INSURANCE  
45 Fremont Street  
San Francisco, California 94105

File No. REG-2010-00015

November 4, 2010

FINAL PROPOSED REGULATION TEXT

PRIVACY OF NONPUBLIC PERSONAL INFORMATION

ARTICLE 2.

PRIVACY NOTICES; OPT OUT NOTICES FOR  
NONPUBLIC PERSONAL FINANCIAL INFORMATION

Section 2689.8. Form of Opt Out Notice and Opt Out Methods.

(a) . . . .

(b) . . . .

(c) A licensee is not subject to the notice and opt out requirements for nonpublic personal financial information if the licensee is an employee or agent of another licensee (“the principal”) and:

(1) The principal otherwise complies with, and provides the required notices; and

(2) The licensee does not disclose any nonpublic personal financial information to any person other than the principal or its affiliates in a manner permitted by California Insurance Code Sections 791 – 791.27 or these regulations.

For purposes of these regulations, “agent” is defined in California Insurance Code Section 791.02(c) to include any person licensed pursuant to Chapters 5, 5A, 6, 7, or 8 and thus includes an insurance broker.

~~(3) A licensee not otherwise subject to the notice and opt out requirements for nonpublic personal financial information, pursuant to sections 2689.8(c)(1) and (2), is subject to the notice and opt out requirements, pursuant to California Insurance Code Section 791.13(k), if the licensee, prior to issuance of a renewal policy or at any other time, shares nonpublic personal financial information with any person other than the insurer which issued the existing policy. A licensee shares nonpublic personal financial information with a person other than the insurer which issued the existing policy if the licensee shares nonpublic personal financial information~~

with another insurer in an effort to obtain a renewal policy on more favorable terms than the existing policy.

NOTE: Authority cited: Sections 791 – 791.27, Insurance Code; and 15 U.S.C. Sections 6801, 6805, and 6807. Reference: Sections 791.13, Insurance Code; Section 4056.5, Financial Code; and 15 U.S.C. Section 6802.