A. 1. Are there any requirements or submissions imposed upon a non-resident producer seeking licensure in your state other than:
   
a. The person must be currently licensed as a resident and in good standing in his or her home state;
   b. The person has submitted the proper request for licensure and has paid the required fees;
   c. The person has submitted or transmitted to the insurance commissioner the application for licensure that the person submitted to his or her home state or, in lieu of the same, a completed Uniform Application; and
   d. The person's home state awards non-resident producer licenses to residents of your state on the same basis?

No, these are the only requirements/submissions ___ or

Yes, there are additional requirements/submissions X

If you answered “yes” to the above question please explain the additional requirements/submissions and provide the authority in your statutes or regulations for imposing such requirements/submissions. (Please use separate page(s) if necessary.)

The California Department of Insurance (CDI) has required all non-resident applicants to submit fingerprints as part of their background check. The fingerprint requirement on non-residents was imposed because not all states fingerprint their resident applicants. Therefore, without a fingerprint requirement CDI cannot ensure that a non-resident applicant fully disclosed all criminal convictions or administrative actions. CDI believes that fingerprinting is an important tool in obtaining a complete and accurate background check for license applicants.

However, in an effort to move towards full reciprocity with other states in regards to non-resident licensing, beginning on March 1, 2010, CDI will no longer require fingerprints from applicants who were previously fingerprinted as a condition of obtaining an insurance producer license in their resident state.

This exemption applies to individuals who currently hold a resident license in the following states: Alaska, Arizona, Connecticut, Florida, Georgia, Idaho, Louisiana, Montana, New Jersey, Nevada, Ohio, Oregon, Pennsylvania, Tennessee, Texas, Utah, and Washington. To qualify for the exemption non-resident applicants must have been fingerprinted as a condition of obtaining their resident license in these states. Therefore, non-resident applicants who currently hold a resident license in these states but were never fingerprinted because they were licensed prior to the state implementing the fingerprint requirement will still need to be fingerprinted as a condition of obtaining a non-resident license in California.
Section 1652 (c) of the California Insurance Code (CIC) states, in part, that the commissioner, in his or her discretion, may require fingerprints on applications for any, some or all of the licenses issued pursuant to Chapter 5, Chapter 6 (commencing with Section 1760), Chapter 7 (commencing with Section 1800), and Chapter 8 (commencing with Section 1831), provided that as to any one such type of license the requirement is applied without discrimination to all applicants within specified classifications. The classifications may be made upon any or all of the following bases: (1) Length of continuous residence in this state. (2) Whether or not previously or currently licensed by the commissioner. (3) Whether or not currently licensed by specified regulatory agencies of the State of California which require fingerprints on applications for licenses and routinely processes the fingerprints for positive identification. (4) Other reasonable criteria.

Further, Section 2194.54 of the California Code of Regulations (CCR) requires all applicants for a title marketing representative certificate to be fingerprinted as a condition of obtaining the certification.

Additionally, CDI has bond requirements for some non-resident producer licenses. A non-resident licensee, when acting in the capacity of an insurance broker, must show proof of a bond before they may transact insurance business. Specifically, Sections 1662, 1663 and 1665 of the CIC states that prior to acting in the capacity of an insurance broker, a fire and casualty broker-agent must file and continuously maintain in force a $10,000 bond executed by an admitted surety insurer.

Further, Section 1623(a) states that if a person is acting as a broker one of the conditions they must meet is to maintain the bond required by Sections 1662, 1663 and 1665. Consequently, personal lines broker-agents, when acting in the capacity of an insurance broker, are also required to file and continuously maintain in force a $10,000 bond executed by an admitted surety insurer. The bond requirements for both the fire and casualty and personal lines broker-agents are not required as a condition to obtain the license but must be maintained to act in the capacity of an insurance broker.

Per Section 1765(c) of the CIC, surplus line brokers must, as one of their conditions for licensure, file a $50,000 bond in accordance with CIC Sections 1662 and 1663. However, per Section 1765(c), a bond is not required for an individual licensed as a surplus line broker who only transacts on behalf of a licensed surplus line organization. There are no sections of the CIC which exempt non-resident licensees from these bond requirements.

Finally, CDI has errors & omissions (E&O) requirements for some non-resident producer licenses. Specifically, Section 1647.5 of the CIC requires a limited liability company (LLC), at the time of licensing and at all times during which the company holds an active license, to maintain an E&O policy in accordance with the provisions contained in CIC Section 1647.5. An LLC, licensed as a business entity, must show proof of E&O coverage before they are able to transact business. There are no sections of the CIC which exempts non-resident licensees from these E&O requirements.
2. Does your state impose any additional requirements or submissions other than the four listed in A.1 upon a non-resident business entity seeking licensure?

Yes X or No _____

If yes, please explain the additional requirements/submissions applicable to business entities and provide the authority in your statutes or regulations for imposing such requirements/submissions. (Please use separate page(s) if necessary.)

Section 1656 of the CIC states, in part, that "Every applicant for an organizational license shall provide the names of all persons who may exercise the power and perform the duties under the license. Applicants for a nonresident organizational license must name at least one person from a state other than California who may exercise the power and perform the duties under their license. Additional persons endorsed to that license may be residents of other states, including California.

Further, although the license does not reflect each business entity the individual licensee is affiliated with, each business entity that the individual licensee is affiliated with must submit an endorsement for the individual licensee. This information is available on CDI’s website for consumers to review.

As previously explained in the response to #1, Section 1647.5 of the CIC requires an LLC, at the time of licensing and at all times during which the company holds an active license, to maintain an E&O policy in accordance with the provisions contained in CIC Section 1647.5. An LLC, licensed as a business entity, must show proof of E&O coverage before they are able to transact business.

CDI also has name approval requirements for all business entity applicants, including non-residents. Specifically, Section 1724.5 of the CIC states, in part, that "every individual and organization licensee and every applicant for such a license shall file with the commissioner in writing the true name of the individual or organization and also all fictitious names under which he conducts or intends to conduct his business and after licensing shall file with the commissioner any change in or discontinuance of such names. The commissioner may in writing disapprove the use of any true or fictitious name (other than the bona fide natural name of an individual) by any licensee on any of the following grounds:

(a) Such name is an interference with or is too similar to a name already filed and in use by another licensee;
(b) The use of the name may mislead the public in any respect;
(c) The name states, infers or implies that the licensee is an insurer, motor club, hospital service plan or entitled to engage in insurance activities not permitted under licenses held or applied for;
(d) The name states or implies that the licensee is an underwriter. This subdivision shall not prevent a natural person who is a life licensee from describing himself as an "underwriter" or from using the designation "Chartered Life Underwriter" if entitled
thereto nor shall it prevent a natural person who is a fire and casualty licensee from using the designation "Chartered Property and Casualty Underwriter" if entitled thereto nor a producers trade association each member of which is also separately licensed from having a name containing the word underwriter; or

(e) The licensee has already filed and not discontinued the use of more than two names including the true name. This subdivision shall not prevent a licensee who has lawfully purchased or succeeded to the business or businesses of other licensees from using for each such business not more than two additional names, true or fictitious, consisting of names used by his predecessors in the conduct of such businesses.

A licensee may not use a true or fictitious name after being notified by the commissioner in writing that such use is contrary to CIC Section 1724.5. If the commissioner determines that there are facts in mitigation in connection with the continued use of such name he may permit its use for a specified reasonable period of time if in connection therewith he imposes such conditions as will protect the public and achieve the purposes of this section. Any such permission and any such conditions shall be written.”

B. Do you have the legal authority to waive any requirements other than the four requirements stated in A.1 above relating to the licensing of a non-resident producer if the non-resident producer’s home state grants licenses to producers from your state on the same basis (see Sec. 16, PLMA)?

Yes X or No _____

Citation (if applicable): As explained in the response to #1, fingerprints may be required at the discretion of the Commissioner. Therefore, the non-resident fingerprinting requirement could be waived. Specifically, Section 1652(c) of the CIC states, in part, that the commissioner, in his or her discretion, may require fingerprints on applications for any, some or all of the licenses issued pursuant to Chapter 5, Chapter 6 (commencing with Section 1760), Chapter 7 (commencing with Section 1800), or Chapter 8 (commencing with Section 1831), provided that as to any one such type of license the requirement is applied without discrimination to all applicants within specified classifications.

The one exception to the Commissioner’s discretion for the fingerprint requirement is regarding title marketing representatives. As explained in #1, Section 2194.54 of the CCR requires all applicants for a title marketing representative certificate to be fingerprinted as a condition of obtaining the certification. Therefore, these regulations would need to be amended for the Commissioner to waive the fingerprint requirement as it pertains to applicants for a title marketing representative certificate.

C. 1. In your state, will a non-resident license be granted for at least the same scope of authority as the non-resident producer applicant’s home state license?

Yes X or No _____
Citation (if applicable): Section 1639 of the CIC states, in part, that “the following types of licenses under this chapter may be issued to nonresidents:

(a) A fire and casualty broker-agent if the nonresident is duly licensed to transact more than one class of insurance, other than life insurance, disability insurance, title insurance, or life and disability insurance, under the laws of the state, territory of the United States, or province of Canada where he or she maintains a resident license to transact insurance.

(b) A personal lines broker-agent if the nonresident is duly licensed to transact those lines of insurance described in Section 1625.5, under the laws of the state, territory of the United States, or province of Canada where the resident license is maintained.

(c) A life agent if the nonresident possesses a resident license in another state, territory of the United States, or province of Canada to transact life insurance or disability insurance.

(d) A nonresident life agent may be granted authority to transact variable contracts if he or she has been granted that authority by the state where the resident license is maintained.

(e) A surplus line broker and a special lines surplus broker if the nonresident holds that type of license in the state or territory of the United States where the resident license is maintained.

(f) A credit insurance agent if the nonresident holds that type of license in the state, territory of the United States, or province of Canada where the resident license is maintained.

(g) A rental car agent if the nonresident holds that type of license in the state, territory of the United States, or province of Canada where the resident license is maintained.

(h) A cargo shipper's agent if the nonresident holds that type of license in the state, territory of the United States, or province of Canada where the resident license is maintained.

(i) A limited lines license if the nonresident holds that type of license in the state, territory of the United States, or province of Canada where the resident license is maintained. As used in this section, "limited lines license" means any authority granted by the resident state that restricts the authority of the license to less than the total authority granted by any of the types of licenses identified in this section.

(j) A self-service storage agent if the nonresident holds that type of license in the state, territory of the United States, or Province of Canada where the resident license is maintained.”

Further, Section 1639.1 (a) of the CIC indicates that the class or classes of insurance which a nonresident person is licensed to transact under his or her resident license shall be determined according to the definitions of classes of insurance in CIC Sections 101 to
120, inclusive. Further, Section 1639.1(c) states that the license authority granted to the nonresident shall not exceed the class or classes of insurance granted by the license issued under the laws of the state, territory of the United States, or province of Canada where the resident license is maintained.

2. Does your state require a non-resident applicant seeking a variable life license to also obtain a life license from your state?

Yes ___ or No X

Citation (if applicable): Section 1639 of the CIC states that a nonresident life agent may be granted authority to transact variable contracts if he or she has been granted that authority by the state where the resident license is maintained. This section also states that a limited lines license may be issued to a nonresident if the nonresident holds that type of license in the state, territory of the United States, or province of Canada where the resident license is maintained. A "limited lines license" means any authority granted by the resident state that restricts the authority of the license to less than the total authority granted by any of the types of licenses identified in this section. Therefore, Section 1639 of the CIC allows for the issuance of a variable life license without requiring a non­resident applicant to also obtain a life license.

If yes, will you waive this requirement? __________________________

Citation (if applicable): __________________________

D. In your state, is a non-resident producer’s continuing education requirement met if the non­resident producer fulfills his or her home state continuing education requirement and the home state also grants such reciprocity?

Yes X or No ___

Citation (if applicable): CDI considers the non-resident producer to be compliant with the CE requirement and would renew the license without additional education requirements. Section 1749.2 of the CIC states, in part, that “the purpose of Sections 1749.3 to 1749.6, inclusive, is to establish requirements and standards for continuing education programs for persons licensed as fire and casualty broker-agents and life agents. Sections 1749.3 to 1749.6, inclusive, shall not apply to either (a) those persons holding resident licenses for any kind or kinds of insurance for which an examination is not required by the law of this state, nor shall it apply to any such limited or restricted license as the commissioner may exempt or (b) licensed nonresident agents or brokers who comply with the continuing education requirements of their state of residence.”

Although not a condition of renewing the license, CDI does require that insurance producers, including non-residents, who sell certain insurance products, complete product-specific training to be eligible to transact those products. The product-specific training requirements are as follows:
Annuities – (Eight-hour initial annuity training, four-hour annuity training each renewal cycle) Section 1749.8(a) of the CIC states that effective January 1, 2005, every life agent who sells annuities shall satisfactorily complete eight hours of training prior to soliciting individual consumers in order to sell annuities. Similarly, Section 1749.8(b) of the CIC states that effective January 1, 2005, every life agent who sells annuities shall satisfactorily complete four hours of training every two years prior to license renewal. For resident agents, this requirement shall be part of, and not in addition to, the continuing education requirements of Section 1749.3.

Long Term Care – (eight hours of training in each of the first four 12-month periods beginning from the date of original license issuance and thereafter eight hours of training prior to each license renewal.) Section 10234.93 of the CIC states, in part, that “(a) Every insurer of long-term care in California shall: (4) Provide the following training and require that each agent or other insurer representative authorized to solicit individual consumers for the sale of long-term care insurance shall satisfactorily complete the following training requirements that, for resident licensees, shall be part of, and not in addition to, the continuing education requirements in Section 1749.3: (A) For licensees issued a license after January 1, 1992, eight hours of training in each of the first four 12-month periods beginning from the date of original license issuance and thereafter and eight hours of training prior to each license renewal.”

California Partnership Long Term Care (eight hours of training in a live classroom setting on the California Partnership for Long-Term Care) – Title 22, Chapter 8, Section 58056 of the California Health and Safety Code of Regulations states, in part, that (a) Insurers shall provide written evidence to the Department of Insurance that procedures are in place to assure that no agent, broker, solicitor, or individual will be authorized to market, sell, solicit, or otherwise contact any person for the purpose of marketing a Partnership Long-Term Care Insurance Policy or Certificate unless the agent, broker, solicitor, or individual has completed eight (8) hours of education on long-term care in general that meet the requirements of Section 10234.93, Chapter 2.6 of Part 2 of the CIC and eight (8) hours of training in a live classroom setting on the California Partnership for Long-Term Care in particular. Such assurances shall be in the form of a document signed by the agent, broker, solicitor, or individual and a representative of the company attesting to the completion of the required training by the agent, broker, solicitor, or individual and submitted to the California Department of Insurance.”

24-Hour Care Coverage (four hours of training for Accident and Health agents) – Section 1749.33(d) requires accident and health agents who wish to sell 24-hour care coverage to complete a course on workers’ compensation and general principles of employer liability prior to selling this coverage. The number of hours (i.e. four) for this requirement was determined by the Commissioner-appointed Curriculum Board as specified in this code section.

E. For each “yes” answer to any of the following questions, please indicate whether you can and will waive the requirement in order to achieve non-resident producer licensing reciprocity.

In your state:
1. Is an appointment required prior to or concurrent with licensure?

Yes _____ or No X

Citation (if applicable): Section 1704 of the CIC

Please explain: Section 1704 of the CIC states that any person acting as a licensee under this chapter shall not act as an agent of an insurer unless the insurer has filed with the commissioner a notice of appointment. However, the CIC does not require that an appointment is required prior to or concurrent with licensure. The notice of appointment may be submitted to the CDI subsequent to licensure.

If yes, will you waive this requirement? ____________________

Citation (if applicable): _____________________________________________

2. Are there any bond, E & O, deposit, tax clearance or trust account requirements for non-resident applicants or producers?

Yes X or No _____

Citation(s) (if applicable): Please refer to our responses to questions #1 and #2 for bond and E&O requirements; Sections 1733, 1734, and 1735 of the CIC for trust account requirements.

Please explain: Please refer to our responses to questions #1 and #2 for bond and E&O requirements. Regarding trust account requirements for non-residents, although not a condition to obtain a license, Sections 1733, 1734, and 1734.5 of the CIC consider all funds received by any person acting as an insurance producer as premium or return premium on or under any policy of insurance to be received and held by that person in his or her fiduciary capacity.

If fiduciary funds are received by such person, he shall: (a) Remit premiums, less commissions, and return premiums received or held by him to the insurer or the person entitled thereto, or (b) Maintain such fiduciary funds on California business at all times in a trustee bank account or depository in California separate from any other account or depository, in an amount at least equal to the premiums and return premiums, net of commissions, received by him and unpaid to the persons entitled thereto or, at their direction or pursuant to written contract, for the account of such persons.

"Trustee bank account or depository" includes but is not limited to a checking account, demand account, or savings account, each of which shall be designated as a trust account. However, such person may commingle with such fiduciary funds in such account or depository such additional funds as he may deem prudent for the purpose of advancing premiums, establishing reserves for the paying of return commissions or for such contingencies as may arise in his business of receiving and transmitting premium or return premium funds.

If fiduciary funds are not remitted, or maintained as described above, the funds shall be maintained in any of the following: (A) United States government bonds and treasury.
certificates or other obligations for which the full faith and credit of the United States are pledged for payment of principal and interest; (B) Certificates of deposit of banks or savings and loan associations licensed by any state government within the United States, or the United States government; (C) Repurchase agreements collateralized by securities issued by the United States government; (D) Either of the following: (i) Bonds and other obligations of this state or of any local agency or district of the State of California having the power, without limit as to rate or amount, to levy taxes or assessments upon all property within its boundaries subject to taxation or assessment by the local agency or district to pay the principal and interest of the obligations; (ii) Revenue bonds and other obligations payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by this state, or a local agency or district or by a department, board, agency, or authority thereof.

If yes, will you waive this requirement? No consideration is being given to waive these requirements.
Citation(s) (if applicable): ____________________ 

3. Are non-resident surplus lines applicants or producers required to post a bond?

Yes X or No ______
Citation (if applicable): Please refer to our responses to questions #1 and #2.
Please explain: Please refer to our responses to questions #1 and #2.

If yes, will you waive this requirement? No consideration is being given to waive this requirement for Business Entities or individuals that are not transacting only on behalf of a licensed Surplus Line Broker Organization.
Citation (if applicable): ______________________ 

4. a. Are non-resident surplus lines applicants or producers required to obtain an underlying general lines or P&C license from your state as a condition to surplus lines licensure?

Yes ____ or No X (If No, you may proceed to E.5.)
Citation (if applicable): Section 1639(e) of the CIC states that CDI may issue a surplus line broker or a special lines surplus broker license if the nonresident holds that type of license in the state or territory of the United States where the resident license is maintained.

Section 1765.3 of the CIC requires that any natural person applying for a license to act as a surplus line broker shall prove his or her competency by showing he or she holds an existing license to act as a fire and casualty broker-agent, which requires passing the qualifying examination for such an insurance broker’s license.

However, a non-resident surplus line broker applicant is not required to also hold an underlying non-resident fire and casualty broker agent license as non-resident applicants for the surplus line broker license must have an underlying property and casualty license (same lines of authority as a fire and casualty broker-agent) in their resident state to be
licensed as a surplus line broker in their resident state.

b. Does your state have a diligent search requirement?

Yes or No _____
Citation (if applicable): ________________________________


c. Is the surplus lines producer required to perform the diligent search of the admitted market in your state?

Yes _____ No _____ or Sometimes ______
Citation (if applicable): ________________________________

If “Sometimes,” please explain the circumstances under which the surplus lines producer is or is not required to perform the diligent search.

d. If the surplus lines producer is not required to perform or is not otherwise performing the diligent search, will you waive the requirement to obtain an underlying general lines or P&C license from your state?

Yes _____ or No _____
Citation (if applicable): ________________________________

5. Are there any training, education, prior experience requirements or minimum age requirements for non-resident applicants or producers?

Yes X or No _____
Citation(s) (if applicable): Section 1644 of the CIC
Please explain: Section 1644 of the CIC states that, “A person under 18 years of age is not eligible to apply for a license pursuant to this chapter, Chapter 5A (commencing with Section 1759), Chapter 6 (commencing with Section 1760), and Chapter 7 (commencing with Section 1800) of Part 2 of Division 1, and Chapter 1 (commencing with Section 14000) and Chapter 2 (commencing with Section 15000) of Division 5.”

If yes, will you waive such requirement(s)? No
Citation(s) (if applicable): ________________________________
6. Are there any provisions allowing only resident producers to sell or solicit insurance or bonds for state business, special funds or entities or state funded projects?

Yes ______ or No X

Citation(s) (if applicable):

Please explain:

If yes, will you waive such restriction(s) for non-resident producers? __________________________

Citation(s) (if applicable): __________________________

F. Are there any post-licensing or other regulatory requirements on any non-resident producer that limit or condition the non-resident producer’s activities because of such producer’s residence or place of operations, or that otherwise subject the non-resident producer to different or discriminatory regulatory requirements than those imposed upon residents?

Yes ______ or No X

If yes, please list the post-licensing/other regulatory requirement(s):

Citation(s) (if applicable): __________________________

If yes, will you waive any of the requirements listed above?

Yes ______ or No ______

Citation(s) (if applicable): __________________________

CERTIFICATION

I hereby certify that I am familiar with the laws, decisions, rules, regulations and other state action having the effect of law in my jurisdiction and upon review of the same affirm that the responses to the above and foregoing are true and correct. Moreover, I hereby further certify that I have the authority to waive those producer licensing requirements as indicated heretofore and agree to waive said requirements in order to meet the reciprocity standard for non-resident-producer licensing as set forth in the Gramm-Leach-Bliley Act.

Date: 2/10/2010

(Signature)

Keith Kugmich
Title: Chief Licensing Services Division

This document is not intended to reflect any position statement of the NAIC, but has been prepared solely to assist the NARAB Working Group in its review of continuing compliance with the reciprocity provisions of the Gramm-Leach-Bliley Act.