

Date of Hearing: May 1, 2017

ASSEMBLY COMMITTEE ON BANKING AND FINANCE

Matthew Dababneh, Chair

AB 1460 (Dababneh) – As Amended April 24, 2017

SUBJECT: Licensees: fiduciary funds

SUMMARY: Allows licensed brokers, as specified, to hold fiduciary funds within any state, as specified. Specifically, **this bill:**

- 1) Deletes the provision requiring the fiduciary funds, as specified, to be held in a banking institution located within California.
- 2) Requires the depository account to be held in a bank or savings and loan that is insured by the Federal Deposit Insurance Corporation (FDIC).
- 3) Requires all suits and administrative proceedings involving the fiduciary trust accounts to be subject to the jurisdiction of the courts of the State of California, as specified.
- 4) Requires a licensee utilizing a trustee bank or depository located outside of the State of California to maintain a written designation with the Insurance Commissioner identifying an agent within this state representing the out of state bank or depository for service of process, as specified.
- 5) Requires any fiduciary funds received as cash, as specified, be initially maintained in a trust account in a bank or depository in California.

EXISTING LAW: Existing law requires that all funds received by any person acting as a licensed insurance producer, an administrator, a surplus line broker, or a bail licensee, as premium or return premium on or under any policy of insurance or undertaking of bail, are received and held by that person in his or her fiduciary capacity. Existing law requires a person who holds one of the above-described licenses who receives fiduciary funds to maintain those funds, as provided, including, but not limited to, maintaining those funds on California business, at all times in a trustee bank account or depository in California, separate from any other account or depository, in specified amounts (Insurance Code Sections 1734 and 1734.5).

FISCAL EFFECT: Unknown

COMMENTS: This bill allows any individual acting as a licensed insurance producer, administrator, surplus line broker or bail licensee to hold fiduciary funds within any state subject to restrictions. According to the author's office:

This bill simply amends two sections of the Insurance Code to allow an insurance agent and broker to hold fiduciary funds in a federally chartered bank or financial institution. Forty-seven states already allow this practice.

This bill seeks to afford more banking options and allow agencies to work with financial institutions that specifically understand their business and banking needs, without

lessening any consumer protections. Considering California is at the forefront of technology innovation and activity, updating this restrictive statute seems appropriate.

REGISTERED SUPPORT / OPPOSITION:

Support

Independent Insurance Agents & Brokers of California, Inc.

Opposition

None on file.

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