

SENATE COMMITTEE ON INSURANCE

2013 – 2014 LEGISLATIVE SUMMARY

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LEGISLATIVE MEASURES

AUTOMOTIVE

BILLS SIGNED INTO LAW

SB 251 (Calderon) Chapter 369, Statutes of 2013

Until January 1, 2019, authorizes an insurer, with the consent of the policyholder, to transmit electronically offers of renewal for workers' compensation, personal auto, real and personal property, and liability insurance policies; notices of conditional renewal for commercial insurance policies; and offers of renewal and certain disclosures related to earthquake insurance. Requires the insurer to comply with the Uniform Electronic Transactions Act, provide specified disclosures, monitor transmission of documents and follow contingent procedures if the insurer receives information that a document was not received, and comply with additional procedures and standards. Requires the Insurance Commissioner to submit a report by January 1, 2018, to the Governor and specified legislative committees regarding electronic transmission.

SB 1273 (Lara) Chapter 487, Statutes of 2014

Extends, until January 1, 2020, the sunset date on the low-cost automobile insurance program (LCAP); expands eligibility criteria to include drivers with less than three years of continuous driving experience and assesses a surcharge on those drivers, and makes other changes designed to increase LCAP participation; and revises the duties of the Insurance Commissioner and the California Automobile Assigned Risk Program Advisory Committee related to the administration of the program.

AB 1804 (Perea) Chapter 380, Statutes of 2014

As of January 1, 2016, provides that policyholders of private passenger automobile, owner-occupied homeowners', and individual disability income insurance policies are entitled to designate a third-party who will be sent a notice if the policy is about to lapse for nonpayment of premium.

AB 2293 (Bonilla) Chapter 389, Statutes of 2014

Subjects a transportation network company (TNC) to the Passenger Charter-party Carriers' Act, defines terms related to TNCs, makes findings and declarations, and imposes other regulations and standards. As of July 1, 2015, requires a TNC to carry liability insurance at levels specific to circumstances that occur while a participating drivers is connected to a TNC system, including (1) primary coverage with a combined single limit of \$1 million dollars once a passenger is matched to a driver and (2) primary coverage with a split limit of \$50,000 per person, \$100,000 per incident, and \$50,000 for property damage, along with \$200,000 excess coverage while the driver is logged on to the system but not matched with a passenger; requires \$1 million dollars of

uninsured and underinsured motorist coverage while a passenger is in the vehicle; permits a TNC to satisfy the insurance requirements with policies obtained by the TNC, the driver, or a combination of both; prohibits a personal automobile insurance policy from providing coverage while the participating driver is connected to the TNC online system or delivering a passenger; requires the TNC to make specified disclosures to TNC drivers regarding insurance coverage; and authorizes a personal automobile insurer to offer coverage for TNC activities. Requires the Public Utilities Commission and the California Department of Insurance to collaborate on a study on insurance requirements appropriate to TNC activities and report their findings to the Legislature on December 31, 2017.

BILLS NOT SENT TO THE GOVERNOR

AB 612 (Nazarian) Held in Assembly Committee on Transportation

Would have required charter-party carriers, including transportation network companies (TNC), to participate in the Department of Motor Vehicles Employer Pull Notice system and submit all drivers to a Department of Justice criminal background check. Pre-hearing author's amendments removed provisions that would have subjected TNCs to the same insurance requirements as other charter-party carriers and required TNCs to disclose issues related to insurance coverage; withdrawn and re-referred without a hearing by the Insurance Committee.

WORKERS' COMPENSATION

BILLS SIGNED INTO LAW

SB 251 (Calderon) Chapter 369, Statutes of 2013

Until January 1, 2019, authorizes an insurer, with the consent of the policyholder, to transmit electronically offers of renewal for workers' compensation, personal auto, real and personal property, and liability insurance policies; notices of conditional renewal for commercial insurance policies; and offers of renewal and certain disclosures related to earthquake insurance. Requires the insurer to comply with the Uniform Electronic Transactions Act, provide specified disclosures, monitor transmission of documents and follow contingent procedures if the insurer receives information that a document was not received, and comply with additional procedures and standards. Requires the Insurance Commissioner to submit a report by January 1, 2018, to the Governor and specified legislative committees regarding electronic transmission.

AB 1394 (Committee on Insurance) Chapter 309, Statutes of 2013

Authorizes the board of directors of the State Compensation Insurance Fund to appoint a chief medical officer, chief actuarial officer, chief claims operations officer, and chief of internal affairs, and makes those positions subject to the Milton Marks Postgovernment Employment Restrictions Act of 1990.

BILLS VETOED

SB 36 (Hueso)

Would have required the California Department of Insurance to establish a dedicated webpage that includes data, statistics, and reports related to workers' compensation insurers.

BILLS NOT SENT TO THE GOVERNOR

SB 487 (Calderon) Held in Senate Insurance Committee

Would have created the Self-Insured Group Security Fund to guarantee payment of workers' compensation obligations of insolvent self-insured groups.

DEPARTMENT OF INSURANCE

BILLS SIGNED INTO LAW

SB 476 (Steinberg) Chapter 347, Statutes of 2013

Eliminates the sunset dates for the Auto Consumer Assessment, Organized Automobile Fraud Activity Interdiction Assessment and the Life and Annuity Consumer Protection Fund that fund fraud investigation and enforcement actions through the California Department of Insurance and local district attorneys. Lowers the maximum assessment of the Auto Consumer Assessment to 25 cents per policy and expands application of the Life and Annuity Consumer Protection Fund to include life insurance and annuity products valued at less than \$15,000. Also requires the Insurance Commissioner to include in the annual report information pertaining to complaints and enforcement actions related to automobile insurance.

SB 1142 (Monning) Chapter 251, Statutes of 2014

Clarifies that the annual disability fraud fee collected by the California Department of Insurance to fund the investigation and prosecution of disability fraud applies to each resident in California covered by an individual or group policy regardless of the situs of the contract or the location of the master policy holder, and that the disability fraud fee applies to blanket insurance policies regardless of whether an individual certificate of coverage is issued to each covered person under the policy.

AB 584 (Perea) Chapter 238, Statutes of 2013

As of January 1, 2015, requires insurers with annual premiums greater than \$500 million and insurance groups with annual premiums greater than \$1 billion to maintain a comprehensive risk management framework to identify, assess, and manage material and relevant risks. Also requires the qualifying insurer or insurance group to file an Own Risk and Solvency Assessment

report annually detailing the risks identified and the sufficiency of its capital to support the risks.

AB 1234 (Levine) Chapter 448, Statutes of 2014

Excludes information and documents provided to the Insurance Commissioner pursuant to the Insurance Holding Company System Regulatory Act from the civil discovery process and prohibits admission of that information and materials as evidence in private civil actions.

AB 1391 (Committee on Insurance) Chapter 321, Statutes of 2013

Contains numerous technical and noncontroversial provisions related to insurance law.

AB 1395 (Perea) Chapter 407, Statutes of 2014

Increases the special purpose assessment on each auto insurance policy to fund consumer protection activities at the California Department of Insurance from \$0.25 to \$0.26; and provides that an insurer is not required to refund any portion of the annual Seismic Safety Account special assessment collected on a residential or commercial property insurance policy because the policy is cancelled prior to the end of the policy term.

AB 2128 (Gordon) Chapter 384, Statutes of 2014

Extends the sunset date on the California Organized Investment Network (COIN) program within the California Department of Insurance (CDI) to January 1, 2020; raises the threshold for insurers required to report all community development investments, community development infrastructure investments, and green investments to only those with annual written premiums of \$100,000,000 or more, and requires those insurers to report that information to COIN by July 1, 2016; eliminates the biennial review of community development investment policy statements; and revises the terms of the advisory board members and lowers the number of mandatory meetings of the board to three. By December 31, 2016, requires the Insurance Commissioner to provide additional information on CDI's website related to the program's efforts to analyze use the data for the purpose of creating and identifying potential investment opportunities.

AB 2734 (Committee on Insurance) Chapter 362, Statutes of 2014

Contains numerous technical and noncontroversial provisions related to insurance law.

BILLS NOT SENT TO THE GOVERNOR

SB 1331 (GAINES) Failed Passage in Senate Insurance Committee

Would have eliminated advocacy and witness fees for intervenors who make a "substantial contribution" to the adoption of any order, regulation, or decision by the Insurance Commissioner as provided under the Insurance Rate Reduction and Reform Act (enacted by Proposition 103, 1988 statewide general election), including the rate review process.

SB 1173 (Gaines) Failed Passage in Senate Insurance Committee

Would have required the Insurance Commissioner to automatically accept rate decrease applications filed by insurers without review or hearing.

HOMEOWNERS/PROPERTY/ CALIFORNIA EARTHQUAKE AUTHORITY

BILLS SIGNED INTO LAW

SB 251 (Calderon) Chapter 369, Statutes of 2013

Until January 1, 2019, authorizes an insurer, with the consent of the policyholder, to transmit electronically offers of renewal for workers' compensation, personal auto, real and personal property, and liability insurance policies; notices of conditional renewal for commercial insurance policies; and offers of renewal and certain disclosures related to earthquake insurance. Requires the insurer to comply with the Uniform Electronic Transactions Act, provide specified disclosures, monitor transmission of documents and follow contingent procedures if the insurer receives information that a document was not received, and comply with additional procedures and standards. Requires the Insurance Commissioner to submit a report by January 1, 2018, to the Governor and specified legislative committees regarding electronic transmission.

SB 1205 (Monning) Chapter 252, Statutes of 2014

Requires the California Department of Insurance curriculum board to develop or recommend course of study on commercial earthquake risk management, including courses relating to understanding risk zones, options for insurance coverage to cover potential loss, mitigation strategies, and post-event recovery to ensure insurance agents and brokers have access to training on the complex issues of commercial earthquake insurance and mitigation.

AB 1804 (Perea) Chapter 380, Statutes of 2014

As of January 1, 2016, provides that policyholders of private passenger automobile, owner-occupied homeowners', and individual disability income insurance policies are entitled to designate a third-party who will be sent a notice if the policy is about to lapse for nonpayment of premium.

AB 2064 (Cooley) Chapter 419, Statutes of 2014

Revises the statutory notice requirements relating to the mandatory offer of earthquake insurance to make it more consumer friendly; revises the mandatory notice to California Earthquake Authority (CEA) policyholders; increases the cap on CEA operating expenses from 3% to 6% and includes all expenses in that cap except those expenditures specifically excluded, as

specified; changes CEA loss assessment coverage for condominiums from mandatory to optional; and requires CEA participating insurers to send CEA marketing materials to homeowners' insurance policyholders at least once a year.

AB 2735 (Committee on Insurance) Chapter 427, Statutes of 2014

Provides that if an insurer issues an earthquake insurance policy not meeting the minimum statutory requirements that is approved by the Insurance Commissioner, no further offer of earthquake coverage meeting the minimum offer requirements and no notice of non-coverage is required if a renewal of the earthquake policy is offered and written notice is provided regarding the availability of additional coverage that meets the minimum statutory offer requirements.

LIFE AND DISABILITY

BILLS SIGNED INTO LAW

SB 281 (Calderon) Chapter 345, Statutes of 2013

Establishes standards for, and authorizes the sale of, life insurance policies with “accelerated death benefits,” subject to the approval of the Insurance Commissioner, that grant the policy owner access to all or a portion of the death benefit when the insured experiences a catastrophic or chronic illness; prohibits insurers from marketing policies with accelerated death benefits as long-term care insurance; establishes mechanisms to discourage the unnecessary replacement of a long-term care insurance policy with an accelerated death benefit policy; authorizes the Insurance Commissioner to disapprove any advertising that does not meet specified requirements; and subjects insurers that violate applicable provisions to administrative penalties.

AB 402 (Ammiano) Chapter 550, Statutes of 2013

Requires disability income insurance policies to cover a disability caused by severe mental illness.

AB 1804 (Perea) Chapter 380, Statutes of 2014

Provides that policyholders of private passenger automobile, owner-occupied homeowners', and individual disability income insurance policies are entitled to designate a third-party who will be sent a notice if the policy is about to lapse for nonpayment of premium.

AB 2279 (Hagman) Chapter 108, Statutes of 2014

Increases the coverage amount that can be sold by limited-license life insurance agents for benefits designated to be used to cover funeral expenses from \$15,000 to \$20,000.

AB 2347 (Gonzalez) Chapter 166, Statutes of 2014

Adds immediate annuities to the requirement that life insurance policies and annuity contracts delivered or issued to a senior citizen include a notice of the right to return or cancel the policy or contract within 30 days for a full refund; clarifies that the 30 day free look period applies to group life insurance policies; requires the notice of the 30 day right to return, and any surrender charges or penalties, to be in 12 point bold print on the policy jacket or cover page; and makes other technical and clarifying changes to life insurance policies and annuity contracts.

AB 2578 (Dababneh) Chapter 360, Statutes of 2014

Adds a condition or loss caused or substantially contributed to by engaging in civil aviation, other than as a fare paying passenger, to the list of allowable exclusions for supplemental or accelerated death benefits in a life insurance policy; requires the insurer to provide the policyholder a report no less than one month after payment of any accelerated death benefits; and makes other technical and clarifying changes.

AB 2733 (Committee on Insurance) Chapter 150, Statutes of 2014

Repeals the sunset clause on the small business third-party administrator program for voluntary disability programs (VDPs), streamlines the administration of multiple VDPs, and shifts financial security obligations from the employer to the administrator.

BILLS NOT SENT TO THE GOVERNOR

SB 214 (Calderon) Held in Senate Insurance Committee

Would have authorized life settlement agreements specially designed to fund qualified long-term care services.

MISCELLANEOUS

BILLS SIGNED INTO LAW

SB 1011 (Monning) Chapter 556, Statutes of 2014

Authorizes certain 501(c)(3) nonprofit organizations to insure themselves against damage to property and the losses related to the loss of use of property through a risk pool arrangement (“nonprofit risk pool”) so long as they meet specified criteria; requires all nonprofit risk pools to be organized as public benefit corporations; and, after January 1, 2016, requires all nonprofit risk pools to notify members and applicants that the risk pooling contract is not subject to all of the California insurance laws and is not subject to regulation by the Insurance Commissioner.

AB 1130 (Wilk) Chapter 324, Statutes of 2014

Streamlines the application process required of out-of-state applicants for a home protection company license, eliminates a quarterly financial reporting requirement, and limits the number of financial examinations by the Insurance Commissioner to one every five years unless the commissioner finds that the financial condition of the company warrants an interim exam.

AB 1236 (Hagman) Chapter 114, Statutes of 2013

Authorizes a licensed contractor organized as a limited liability company to obtain statutorily required liability insurance from a nonadmitted insurer through a surplus line broker.

AB 2056 (Dababneh) Chapter 896, Statutes of 2014

Defines “pet insurance” and other terms frequently used in pet insurance policies; requires an insurer offering pet insurance to provide disclosure and a summary of exclusions from, and limitations on, coverage and benefits; imposes a 30-day “free look” period; and specifies procedures and penalties relating to violations of these requirements.

AB 2230 (Cooley) Chapter 76, Statutes of 2014

Allows the California Insurance Guarantee Association (CIGA), beginning January 1, 2015, to levy an assessment up to 2% of direct written premiums on insurers, unless there are outstanding bonds being used to pay claims and expenses, in which case the assessment could not exceed 1% for that category; simplifies the “true-up” process and allow credit and debits due individual insurers for over or under payments on bond assessments to be applied against regular CIGA assessments.

AB 2731 (Perea) Chapter 743, Statutes of 2014

As heard by this committee, AB 2731 was authored by the Assembly Insurance Committee and would have clarified reporting requirements for various reports related to insurance that must be submitted to the Legislature. The bill was subsequently amended to change the author, remove the insurance provisions, and instead clarify the action that Fresno County must take in order to defer the county’s 2010 transportation maintenance of effort payment until 2020.

BILLS NOT SENT TO THE GOVERNOR

SB 1065 (Monning) Died on Assembly Inactive File

Would have provided that reports required by the Insurance Code that are submitted to committees of the Legislature be submitted to the Legislative Counsel, authorized specified reports to be submitted electronically, and established standards and procedures for electronic submission.

INFORMATIONAL HEARINGS

March 26, 2014: “California Earthquake Preparedness: Risks to Businesses and the Economy”

This hearing examined the risks faced by businesses, the workers’ compensation system, and state and local governments whose revenue would be affected by a prolonged interruption of economic activity as a result of a major earthquake; heard from the insurance industry on the state of the commercial earthquake insurance market; examined how prepared California businesses are for a major earthquake; and sought to determine what can be done to maximize the level of insured risk prior to a major earthquake event.

There hasn’t been a major earthquake event since the Northridge earthquake in 1994, but California is almost certain to experience a similar disaster, or worse, in the next 30 years. While more than 30% of homeowners had earthquake coverage in 1994, it is now significantly more expensive and today only about 11% do. Only 8.3% of businesses today have earthquake coverage, according to the California Department of Insurance. Those numbers may be higher in the highest risk areas.

Insurance is the primary mechanism to spread losses and rapidly pay defined amounts for the repair of earthquake damage. It is essential for the economic recovery of individuals, families, businesses and communities. To date, the private market has shown little interest in taking on more natural catastrophe exposure for residential or commercial risks. High premiums and big deductibles discourage most property or business owners from voluntarily purchasing such coverage.

May 14, 2014: “Catastrophic Risk in California: Are Homeowners and Communities Prepared?”

This hearing examined the current state of the residential insurance market and whether homeowners are adequately insured against catastrophic risk, including earthquake and the threat of major fires. The Committee examined options to increase insurance and pre-event mitigation, and whether there is more the Legislature could or should be doing to increase community readiness and preparedness for a major earthquake or massive fire.

A major earthquake in the San Francisco Bay Area or in southern California could have an even greater impact on communities than Hurricane Katrina had in Louisiana and Mississippi. According to the Bureau of Labor Statistics Monthly Labor Review in 2007, the exposures in Alameda County from a magnitude-6.9 earthquake on the Hayward Fault would be much greater than Katrina—the country’s worst natural disaster in history.

There hasn’t been major earthquake event since the Northridge earthquake in 1994 precipitated a homeowners’ insurance availability crisis, but California is almost certain to experience a similar disaster, or worse, in the next 30 years.

California is facing record drought conditions at the same time that residential areas are

expanding into traditionally high risk fire areas. The chances of a major fire that damages or destroys large numbers of homes, or whole communities is growing at the same time that some insurers are exiting the homeowners' insurance market for such high risk properties.

Insurance is the primary mechanism to spread losses and rapidly pay defined amounts for the repair of earthquake or fire damage. It is essential for the economic recovery of individuals, families, businesses and communities. Unless property or business owners take action before a disaster to protect themselves by mitigating or transferring some of the risk, they--or as many hope, the government--will bear the cost of such catastrophic losses. The overwhelming federal disaster relief effort after Hurricanes Katrina and Sandy reinforced the expectation that the federal government is the de facto "insurer" of last resort for mega catastrophes.