

**SENATE COMMITTEE
ON BANKING, FINANCE and
INSURANCE**

2007 – 2008 LEGISLATIVE SUMMARY

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INSURANCE

AUTOMOTIVE

BILLS SIGNED INTO LAW

SB 629 (CORREA) Chapter 211, Statutes of 2007

Repeals a provision of law that requires any peace officer or firefighter who has been involved in an accident to submit to his/her automobile insurance company a written declaration stating whether at the time of the accident he/she was operating an authorized emergency vehicle in the performance of duty.

SB 1371 (CORREA) Chapter 526, Statutes of 2008

Prohibits automobile insurers from capping offers and payments for paint and materials charges, and defines capping for that purpose.

AB 1008 (C. CALDERON) Chapter 326, Statutes of 2007

Expands the definition of vehicle service contracts to allow for the sale of contracts covering automobile tires and wheels, glass, and non-paint dent repair; and allows a vehicle service contract obligor to demonstrate to the satisfaction of the Insurance Commissioner that it has a net worth of \$100 million in lieu of obtaining insurance coverage sufficient to cover its vehicle service contract obligations.

AB 1115 (RUNNER) Chapter 85, Statutes of 2008

Expands the definition of “authorized emergency vehicle” used in the performance of duty by a peace officer or firefighter to include situations where the vehicle has been rented or leased by the employer for official purposes.

AB 2688 (DE LA TORRE) Chapter 42, Statutes of 2008

Authorizes the California Automobile Assigned Risk Plan to obtain accident and violation history data of insureds from a subscribing loss underwriting exchange carrier, and to use that data to adjust the premium for the policy within 60 days of issuing or renewing the policy.

AB 3057 (COMMITTEE ON INSURANCE) Chapter 107, Statutes of 2008

A committee bill that makes non-substantive changes to existing law by correcting two obsolete references to law governing the sale of automobile insurance.

BILLS VETOED

SB 1167 (WIGGINS)

Would have required the Insurance Commissioner to convene a task force, as specified, to review issues arising from implementation of the automobile repair anti-steering statute, and to report its findings to the Legislature by December 31, 2009.

AB 2139 (DE LA TORRE)

Would have prohibited any automobile insurance policy from expressly or impliedly excluding coverage for the operation or use of an insured motor vehicle by the named insured in the performance of in-home support services; and would have prohibited an insurer from classifying a motor vehicle as a carrier, livery, or for hire vehicle solely for the reason that the vehicle is used to provide transportation incidental to the provision of in-home supportive services.

BILLS NOT SENT TO THE GOVERNOR

SB 875 (RIDLEY-THOMAS) Held in Senate Rules Committee

As introduced, would have provided that “premium” for purposes of the declaration of premium in an insurance contract means the consideration for the transfer of risk provided under the insurance policy, but does not mean or include any fee or charge paid under an installment payment option; stated that this is declaratory of existing law; required an installment fee to be disclosed in a manner that informs the applicant or policyholder of the amount of the charge on a per installment basis; and required the disclosure to be made separately from the disclosure of premium, as specified. The bill was amended in Senate Banking, Finance and Insurance Committee to limit the installment fee to cover only administrative costs to the insurer or a third party of the installment payment option.

SB 1059 (MIGDEN) Failed passage on the Senate Floor, held on Senate Inactive File

Would have prohibited an insurer from requiring the installation of an aftermarket part, as defined, on a vehicle if the part to be replaced is under an existing original manufacturer’s warranty, and prohibited the insurer from limiting payment to the cost of the aftermarket part, up to three years after the vehicle was sold as new.

AB 2800 (HUFFMAN) Held on Senate Inactive File

Would have allowed automobile insurers to apply different rating factors for voluntary insurer-verified annual mileage determinations and for estimated annual mileage determinations, as specified, and would have declared that this was in furtherance of the intent of Proposition 103.

DEPARTMENT OF INSURANCE

BILLS SIGNED INTO LAW

SB 1279 (MALDONADO) Chapter 351, Statutes of 2008

Deletes the requirement that insurer statements be filed with the Department of Insurance in triplicate; deletes the requirement that the Insurance Commissioner certify and provide paper copies of surety and bail agent information to county clerks, as specified; and requires the Insurance Commissioner to publish and maintain records in electronic forms and handle transactions electronically, to the extent not otherwise prohibited by law.

AB 1401 (AGHAZARIAN) Chapter 335, Statutes of 2007

Increases from \$1,300 to no more than \$5,100 the assessment on insurers to fund the activities of the Fraud Division of the Department of Insurance (DOI); clarifies and renames various annual fees funding the activities of the Fraud Division as special purpose assessments; explicitly allows insurers to recoup specified special purpose assessments from insureds; and requires the DOI to report specified information about the operations of the Fraud Division annually on the DOI web site.

AB 2044 (DUVALL) Chapter 300, Statutes of 2008

Establishes a “citation and fine” program in lieu of the existing “reprimand” program to enforce minor violations of the Insurance Code by insurance agents and brokers; and makes a number of technical, corrective and clarifying amendments to the Insurance Code.

AB 2143 (DE LEON) Chapter 445, Statutes of 2008

Extends the sunset date for funding of the Department of Insurance Fraud Division and the Organized Automobile Fraud Activity Interdiction Program from January 1, 2010 to January 1, 2015.

BILLS VETOED

AB 3054 (COMMITTEE ON INSURANCE)

Department of Insurance sponsored omnibus bill that would have made a number of technical, corrective and clarifying amendments to the Insurance Code and the Vehicle Code.

BILLS NOT SENT TO THE GOVERNOR

SB 536 (SIMITIAN) Held in Senate Banking, Finance and Insurance Committee

Would have amended the Political Reform Act of 1974 to provide for public financing for candidates for the office of Insurance Commissioner, and would have imposed a fee on insurers for that purpose.

SB 711 (RUNNER) Held in Senate Banking, Finance and Insurance Committee

Would have provided that the adequacy or inadequacy of each insurer's rates shall be determined by its own experience, whether or not the insurer meets all of the criteria to be exempt from the requirement to sell good driver discount policies issued by other insurers within its common ownership group, as specified.

HOMEOWNERS/PROPERTY

BILLS SIGNED INTO LAW

SB 430 (MACHADO) Chapter 303, Statutes of 2007

Creates a new assessment authority for the California Earthquake Authority (CEA) to replace an assessment authority that sunsets on December 1, 2008, clarifies the power of the CEA Board of Directors to impose conditions on insurance companies applying to become participating insurers, and redefines the term "available capital" for purposes of the CEA law.

SB 133 (AANESTAD) Chapter 280, Statutes of 2008

Prohibits persons from marketing, offering, soliciting, negotiating, or selling title insurance in California without a valid certificate of registration as a title marketing representative; establishes procedures for use by persons in obtaining and renewing a certificate of registration as a title marketing representative; and places limits on the value of items that title marketing representatives are allowed to provide to those in a position to refer business to the title insurers they represent.

BILLS VETOED

AB 1565 (LIEBER)

Would have provided that a property insurance policy covering a place of religious observance or practice could not be cancelled or nonrenewed, nor the premium increased, based on a claim occurring as a result of any hate crime committed against the property, as specified.

BILLS NOT SENT TO THE GOVERNOR

SB 1513 (MACHADO) Held in Senate Rules Committee

This was a spot bill introduced in case clean-up legislation was needed for legislation passed in 2007, SB 430 (Machado, Chapter 303, Statutes of 2007) that created a new industry assessment to fund the California Earthquake Authority. The bill was not needed.

AB 1159 (COTO) Held on Senate Inactive File

In its final version, this bill was amended to change the author and duplicate the contents of SB 430 (Machado) noted above, regarding a new assessment for the California Earthquake Authority. As introduced, the bill was authored by Assemblymember Richardson and dealt with highway encroachment permits, and later amended to require the Department of Finance to submit to the Legislative Analyst a list of fees, as specified, that are remitted to the General Fund, and required state agencies and departments to provide assistance to the Legislative Analyst in reviewing whether those identified fees accurately or inaccurately reflected the full costs associated with the service or program for which they were charged.

LIFE AND DISABILITY

BILLS SIGNED INTO LAW

SB 357 (COX) Chapter 78, Statutes of 2007

Decreases the number of employees needed to qualify for group life coverage from ten to two, and from three to two for group disability coverage; allows the premium for group life insurance to be paid entirely by the employee; eliminates the requirement that at least 75% of eligible group members participate; increases the allowable amount of coverage for dependents; and increases the age for eligible dependents attending school from 22 to 24.

AB 2465 (DUVALL) Chapter 463, Statutes of 2008

Specifies that an individual life insurance policy or annuity is exempt from meeting certain minimum disclosure requirements in replacement transactions when a term conversion privilege is exercised among corporate affiliates, and defines “term conversion privilege” and “corporate affiliate” for this purpose.

BILLS VETOED

SB 739 (C. CALDERON)

Would have exempted a seller of a burial or pre-need policy with a face value of \$15,000 or less from the requirement that 24 hours notice be provided to a senior prior to any sales meeting in the senior’s home when the senior has requested the meeting by telephone or in writing; required

that the senior sign a written notice explaining his or her rights, including the right to cancel and return a policy within 30 days for a full refund; required the written notice to be submitted with any application, if the senior purchases a policy; specified that a policy under this exception would create no pre-existing relationship for purposes of selling other insurance or annuity products without the 24 hour prior notice requirement; and extended the cancellation period to no less than 30 days for all burial or pre-need policies with a face value of \$15,000 or less, whether or not sold to a senior.

SB 1543 (MACHADO)

Would have enacted the Life Settlements Consumer Protection Act of 2008; required the licensing of persons who transact life settlement contracts; made it unlawful to issue or market the purchase of a new life insurance policy for the purpose of settling the policy; generally prohibited individuals from entering into a life settlement contracts during the initial two years of the policy, with exceptions; required specified disclosures to consumers; regulated marketing practices; and prohibited predatory practices such as false and misleading statements.

BILLS NOT SENT TO THE GOVERNOR

SB 573 (SCOTT) Held in Assembly Insurance Committee

Would have required insurers to develop and use suitability standards for the sale of annuities to seniors, as specified; established minimum criteria to be applied in developing suitability standards; required an insurer or life agent to have reasonable grounds to believe that an annuity product was suitable for the senior based on facts provided by the senior; required an insurer to establish, either directly or indirectly through a contract with a third person, a system reasonably designed to ensure that recommendations comply with these provisions; and allowed the Insurance Commissioner to order an insurer to take reasonably appropriate corrective action, including restitution, for any senior harmed by violation of these provisions.

SB 1224 (MACHADO) Failed passage in Assembly Banking and Finance Committee

Identical to SB 1543 (Machado) above, dealing with life settlement transactions. The content of SB 1224 was amended into SB 1543 on the Assembly Floor, and was sent to the Governor.

SB 1434 (CORREA) Held in Senate Banking, Finance and Insurance Committee

Would have enacted the Interstate Insurance Regulation Compact (Compact) to develop uniform standards for life insurance, annuities, disability insurance, and long term care insurance product lines that are binding on member states; provided that California would join the Compact and be bound by its insurance product rules and standards; authorized California to opt out as to a particular uniform standard through enactment of legislation or regulation; and provided that the Insurance Commissioner would serve as California's representative to the Compact, as specified.

AB 2464 (DUVALL) Held on Senate Inactive File

Would have enacted provisions of the National Association of Insurance Commissioners Annuity Disclosure Model Regulation, including provision of a disclosure document to the consumer that outlines features of the annuity contract, as well as a buyer's guide containing general information about annuities.

LICENSING

BILLS SIGNED INTO LAW

AB 720 (DE LEON) Chapter 270, Statutes of 2007

Establishes two new insurance license types, a life-only agent license and an accident and health agent license, in place of the current life agent license; defines the authorities of each license type; and specifies the requirements for licensure and post-licensing continuing education.

AB 797 (COTO) Chapter 271, Statutes of 2007

Creates a new limited lines automobile insurance agent license; establishes the requirements and fees for that license; and allows the curriculum board to approve continuing education courses in business management practices for all agent-broker licensees, up to 25 percent of the required hours.

AB 1639 (DUVALL) Chapter 122, Statutes of 2007

Prohibits an education provider who is also an insurance agent-broker licensee to claim continuing education credit for its own approved self-study courses; requires all persons transacting surplus line insurance to be individually licensed as a surplus line broker; reduces surplus line broker license fees; and applies the more extensive fictitious business name rules that apply to agents and brokers to independent and public insurance adjusters.

AB 1699 (DUVALL) Chapter 29, Statutes of 2008

Reduces the license fee for an individual surplus line broker who transacts surplus line insurance only on behalf of a surplus line broker organization; increases the license fee for surplus line organizations; deletes the requirement that an individual be licensed as a surplus line broker to transact surplus line brokerage business; and makes other changes to the surplus line law, as specified.

MISCELLANEOUS

BILLS SIGNED INTO LAW

SB 316 (YEE) Chapter 431, Statutes of 2007

Eliminated the requirement that workers' compensation insurers place 65% of written premium in reserve, and required the Commission on Health, Safety and Workers' Compensation to conduct a study of the insolvency problems of workers' compensation insurers within the past 10 years, at a cost of up to \$1 million, funded equally by an assessment on workers' compensation insurers and the Workers' Compensation Revolving Fund, as specified.

SB 339 (SCOTT) Chapter 297, Statutes of 2007

Allows domestic incorporated insurers to invest their excess funds in a wider variety of investments than allowed under current law, specifically in mutual funds, closed-end funds, unit investment trusts, and/or exchange-traded funds, subject to specified conditions.

SB 869 (RIDLEY-THOMAS) Chapter 662, Statutes of 2007

Requires an existing workers' compensation insurance coverage program maintained by the Labor Commissioner to identify unlawfully uninsured employers and authorizes the Labor Commissioner to prioritize targets for the program in consideration of available resources; revises reporting requirements and requires reports to be posted on the Labor Commissioner's web site; and expands the purposes for which funds in the Workers' Compensation Administration Revolving Fund may be used to include enforcement of the insurance coverage program.

SB 1038 (CMTE. ON BANKING, FINANCE, & INSURANCE) Chapter 100, Statutes of 2007

Makes technical corrections and clarifications to several sections of the Insurance Code and deletes a redundant section.

SB 1145 (MACHADO) Chapter 344, Statutes of 2008

Restructures the governance of the State Compensation Insurance Fund; allows the board to appoint six additional exempt positions in addition to the president, with the salaries to be set by the board; applies the Bagley-Keene Open Meetings Act to the board, as specified; and applies the Milton Marks Postgovernment Employment Restrictions Act to members of the board and other executive employees, as specified.

SB 1467 (MACHADO) Chapter 407, Statutes of 2008

Requires meetings of the California Insurance Guarantee Association board of governors, and its investment and audit committee, to be open to the public, with exceptions for closed meetings, as specified.

AB 522 (DUVALL) Chapter 134, Statutes of 2007

Allows for short-term extension of surplus line insurance policies without conducting a diligent search of admitted insurers, as specified; and would eliminate the sunset date on a provision that allows non-admitted insurers and surplus line brokers to immediately bind homeowners' insurance coverage and obtain the applicant's signed disclosure within five days of binding coverage, under specified conditions.

AB 545 (WALTERS) Chapter 626, Statutes of 2008

As heard by this Committee, this bill would have permitted the California Public Employees' Retirement System (CalPERS) increased access to information maintained by the Employment Development Department or by workers' compensation insurers in order to investigate the unlawful application for, or receipt of, CalPERS disability benefits. The bill was subsequently gutted and amended, and as enacted allows CalPERS to process applications to purchase service credit for active duty military leave, as specified.

AB 796 (COMMITTEE ON INSURANCE) Chapter 138, Statutes of 2007

Updates the building code references in state law that govern earthquake insurance premiums and deductibles on dwellings; authorizes the Insurance Commissioner to require property and casualty insurers showing a negative trend to file a revised risk-based capital plan and corrective action; eliminates the presumption that securities valued by the National Association of Insurance Commissioners Security Valuation Office are presumed to be readily marketable assets; and modifies the definition of "credit default swap" for purposes of financial guarantee insurance.

AB 812 (HERNANDEZ) Chapter 615, Statutes of 2007

Authorizes workers' compensation insurers to charge an employer up to three times the estimated annual premium and audit costs if the employer fails to provide the insurer access to employment records to conduct a payroll audit, as specified.

AB 1088 (CARTER) Chapter 654, Statutes of 2008

Exempts from gross surplus lines premium tax the risk portion of any blended finite risk product used in the financing element of state or federal Superfund environmental clean-up settlements, as specified.

AB 1188 (COTO) Chapter 428, Statutes of 2008

Authorizes a self-funded or partially self-funded multiple employer welfare arrangement (MEWA) to use the excess assets of the MEWA to purchase an office building or buildings that are used for its principal operations and business, as specified.

AB 1364 (BENOIT) Chapter 117, Statutes of 2007

Provides that, for any insurer operating in California but domiciled in a state where the law provides that reimbursement for large deductibles under a workers' compensation policy are considered assets of the estate in the event of the insurer's insolvency, the insurer's security deposit in California shall be calculated based on the gross amount of that insurer's liabilities for loss without regard to the deductible, or collateral or reimbursement obligations of the insured under the policy.

AB 1874 (COTO) Chapter 322, Statutes of 2008

Expands the Board of Directors for the State Compensation Fund to 11 members, adds legislative appointments, repeals the requirement that directors be policyholders, specifies compensation for the directors, and establishes qualifications for the directors.

AB 2150 (BERG) Chapter 327, Statutes of 2008

Prohibits an insurance agent or broker from using a senior designation in any oral or written communication used to sell insurance to a senior unless specified conditions are met; defines "senior designation,;" establishes the conditions under which a senior designation may be used; and sets up a process for the Insurance Commissioner to approve an organization that issues senior designations.

AB 2203 (DE LEON) Chapter 129, Statutes of 2008

Increases the limit on the amount of foreign investments that California-domiciled insurance companies may make from four percent to 20 percent of excess funds; and prohibits a domestic insurer from acquiring, directly or indirectly, an investment of more than three percent of its admitted assets in specified investments held by a single person, or more than five percent in the voting securities of a depository institution, as specified.

AB 2731 (EMMERSON) Chapter 78, Statutes of 2008

Expands the definition of "qualified custodian" for purposes of regulating domestic admitted insurers.

AB 2956 (COTO) Chapter 304, Statutes of 2008

Provides that a determination of whether a person is acting as an insurance agent or an insurance broker is based on the “totality of the circumstances,” and defines “totality of the circumstances” for this purpose.

AB 3055 (COMMITTEE ON INSURANCE) Chapter 80, Statutes of 2008

Allows the California Insurance Guarantee Association (CIGA) to issue bonds for an additional two years beyond the current sunset date, but does not change the amount of bonds CIGA can issue; allows CIGA to recover excess payments on a covered claim through arbitration or an administrative hearing; and makes other technical and clarifying changes.

AB 3056 (COMMITTEE ON INSURANCE) Chapter 507, Statutes of 2008

Extends the sunset date to January 1, 2015 for an existing state retraining program that satisfies a federal mandate to provide training to individuals who receive unemployment insurance compensation.

BILLS VETOED

AB 507 (DE LA TORRE)

Would have required the Workers’ Compensation Rating Bureau, a private entity that is designated by the Insurance Commissioner as his/her “statistical agent” to carry out specified statutory functions, to make available on its web site information about whether or not an employer has workers’ compensation insurance, as specified.

AB 1906 (SALAS)

Would have added identity theft to the existing classes of insurance that may be transacted in California; specified that identity theft insurance includes insurance against costs associated with re-establishing credit, reclaiming financial identity, and communicating with banks, credit agencies, and other financial institutions; and set forth related legislative findings and declarations regarding identity theft.

AB 1910 (COTO)

Would have required insurance companies to develop a policy on community development investments that expresses the insurers’ goals for these investments, and to file that policy with the Insurance Commissioner.

BILLS NOT SENT TO THE GOVERNOR

SB 723 (YEE) Held in Senate Banking, Finance and Insurance Committee

As introduced, would have authorized the State Compensation Insurance Fund (SCIF) to transact group health insurance, in addition to workers' compensation insurance. The bill was subsequently amended to allow the Commission on Health and Safety and Workers' Compensation (CHSWC) to conduct a study, in consultation with the SCIF, on the feasibility of a system of delivery of medical treatment to sick and disabled employees without regard to the cause of the sickness or disability, also know as a 24 hour health care delivery model, and required CHSWC to report the results to the Legislature by June 30, 2008. Neither version of the bill was heard by this committee.

SB 972 (MCCLINTOCK) Held in Assembly Insurance Committee

Would have established a regulatory structure to license new multiple employer welfare arrangements.

SB 975 (CALDERON) Held in Senate Banking, Finance and Insurance Committee

Would have allowed an insurer to provide specified sales and related materials to brokers without that broker becoming an agent of the insurer, and would have allowed insurers and broker-agents to enter into written contracts that specify a commission or other compensation without prohibiting the broker-agent from receiving other forms of compensation that are not otherwise prohibited by law.

SB 1693 (COX) Held in Senate Appropriations Committee

Would have established a new act in the Insurance Code to govern the regulation of foreign electric cooperative reciprocals, as defined; established various administrative procedures to be complied with in order to operate as a foreign electric cooperative reciprocal; and provided that a foreign reciprocal insurer being regulated in its state of domicile and owned and directed by its members shall not be subject to the same laws as a commercial insurance company that provides insurance to the general public, except as specified.

AB 326 (BENOIT) Held in Senate Banking, Finance and Insurance Committee

Would have made various legislative findings regarding governance of the State Compensation Insurance Fund (SCIF), and required the SCIF board of directors to appoint a subcommittee from among its members to form an audit committee.

AB 1051 (CALDERON) Held in Senate Banking, Finance and Insurance Committee

As introduced, this was a bill by Assemblymember Carter that dealt with an exemption from gross surplus lines premium tax for the risk portion of any blended finite risk product used in the financing element of state or federal Superfund environmental clean-up settlements. That

provision was subsequently amended into AB 1088, passed by this committee and signed by the Governor. The amended version of AB 1051, held by this committee, would have defined “unfairly discriminatory” for purposes of insurance rates governed by Proposition 103, and provided that when a previously approved rate is challenged in court, the court’s ruling cannot be applied retroactively for purposes of retroactive adjustment of insurance rates.

BANKING AND FINANCE

MORTGAGE LENDING AND LICENSING

BILLS SIGNED INTO LAW

SB 385 (MACHADO) Chapter 301, Statutes of 2007

Applies federal guidance on nontraditional and subprime mortgage product risks to state-regulated mortgage lenders and brokers, requires state-regulated mortgage lenders and brokers to develop policies and procedures reasonably developed to implement the guidance documents, and directs the Secretary of Business, Transportation, and Housing to ensure that the Department of Financial Institutions (DFI), Department of Corporations (DOC), and the Department of Real Estate (DRE) coordinate their policymaking and rulemaking efforts related to the guidance.

SB 1137 (PERATA) Chapter 69, Statutes of 2008

Prohibits the holder of a mortgage from filing a notice of default (i.e., from initiating foreclosure proceedings) on a mortgage made between January 1, 2003 and December 31, 2007, until 30 days after making contact with a borrower, or 30 days after satisfying due diligence requirements relating to contact; requires the holder of a mortgage to post a specific notice, translated into five specific foreign languages, on properties on which foreclosure proceedings have begun; gives tenants in possession of a rental housing unit at the time the property is sold in foreclosure 60 days in which to remove himself or herself from the property; and imposes penalties on property owners who fail to adequately maintain foreclosed properties.

SB 1448 (SCOTT) Chapter 156, Statutes of 2008

Increases the fine imposed on unlicensed persons who perform acts for which a Real Estate Law license is required from \$10,000 to \$20,000 for an individual and from \$50,000 to \$60,000 for a corporation, and deposits any fines collected in excess of the prior levels into the Real Estate Fraud Prosecution Trust Fund of the county in which the person or corporation was prosecuted.

SB 1737 (MACHADO) Chapter 286, Statutes of 2008

Prevents known bad actors who have been disciplined by DRE from obtaining real estate-related employment with a licensee overseen by another state regulator; prohibits the practice of “high-balling” broker price opinions in order to cause a lender to reject a short sale, and obtain the listing on the foreclosure property; and requires clear and timely disclosure of the multiple roles a real estate broker may play in a real estate transaction (such as brokering the mortgage and representing the buyer or seller, or both, in the same transaction).

AB 69 (LIEU) Chapter 277, Statutes of 2008

Codifies actions already being undertaken by the DOC Commissioner by authorizing the DOC Commissioner, as he or she deems necessary, to require finance lender and residential mortgage lender licensees to provide specified information regarding their residential mortgage loan servicing activities, and directing the Commissioner to post aggregated survey results on DOC's web site.

AJR 45 (COTO) Chapter 81, Statutes of 2008

Memorializes the Congress of the United States to enact, and the President of the United States to sign, a permanent increase in the conforming mortgage loan limit and the Federal Housing Administration limit, to the levels to which these limits were increased in the Economic Stimulus Act of 2008.

BILLS VETOED

SB 1240 (MACHADO)

Would have required real estate brokers who make, arrange, or service mortgage loans secured by residential real property containing one to four family units to notify DRE when they begin undertaking these activities, and when they cease; required these licensees to provide specified reports to DRE, documenting their compliance with the Real Estate Law, on an annual basis; and required these licensees to provide any special report to DRE that DRE requires.

AB 529 (TORRICO)

Would have required entities responsible for collecting payments of principal, interest, or both, on hybrid adjustable rate mortgages and payment option adjustable rate mortgages to notify borrowers who hold those mortgages, between 90 and 120 days in advance of the first rate reset on their loans.

AB 1830 (LIEU)

The first time the bill was passed by the Committee, it would have authorized DFI, DOC, and DRE to enforce provisions of the Truth in Lending Act, Home Ownership Equity Protection Act, and Real Estate Settlement Procedures Act, and the regulations that apply these acts, as if violations of those federal laws were violations of state licensing laws. It would also have applied the prepayment penalty provisions of federal Regulation Z to state licensees on January 1, 2009. The bill was subsequently amended on the Senate Floor, and reheard by the Committee.

The second time the bill was passed by the Committee, it would have authorized DFI, DOC, and DRE to enforce provisions of the Truth in Lending Act, Home Ownership Equity Protection Act, and Real Estate Settlement Procedures Act, and the regulations that apply these acts, as if violations of those federal laws were violations of state licensing laws; enacted the Higher-Priced Mortgage Loan Law, effective July 1, 2009, as specified; and codified a fiduciary duty for

mortgage brokers, effective January 1, 2009. Generally speaking, the Higher-Priced Mortgage Loan Law enacted by the bill would have imposed restrictions on the imposition of prepayment penalties in connection with higher-priced mortgage loans, limited mortgage broker compensation in connection with higher-priced mortgage loans; prohibited mortgage brokers from steering borrowers into loans that were more costly than loan for which they could qualify; and allowed individuals to enforce the provisions of the Higher-Priced Loan Law through civil lawsuits, in which prevailing plaintiffs could recover reasonable attorney's fees.

BILLS NOT SENT TO THE GOVERNOR

SB 926 (PERATA) Failed passage on the Senate Floor

Would have required the holders of mortgages made prior to December 31, 2007, to notify borrowers, in up to six languages, at least three times prior to interest rate resets on those mortgages; required a mortgagee, trustee, beneficiary or servicer and to engage in a telephonic meeting with a borrower on loans made before December 31, 2007, before the mortgagee, trustee, beneficiary, or servicer could issue a notice of default; required a mortgagee, trustee, beneficiary, or servicer to mail a specified notice to borrowers, in up to six languages, upon filing a notice of foreclosure sale; given tenants in possession of a rental housing unit, at the time the property is sold in foreclosure, 60 days in which to vacate the property; and imposed penalties on property owners who fail to adequately maintain foreclosed properties.

SB 1053 (MACHADO) Failed passage in Assembly Banking and Finance Committee

Would have required real estate brokers who make, arrange, or service mortgage loans secured by residential real property containing one to four family units notify DRE when they begin undertaking these activities, and when they cease; required these licensees to provide specified reports to DRE, documenting their compliance with the Real Estate Law, on an annual basis; and required these licensees to provide any special report to DRE that DRE requires. SB 1053 failed passage in the Assembly Banking and Finance Committee. Its contents were amended into SB 1240 (Machado), which was sent to the Governor.

SB 1054 (MACHADO) Failed passage in Assembly Banking and Finance Committee

Would have prevented known bad actors who have been disciplined by DRE from obtaining real estate-related employment with a licensee overseen by another state regulator; prohibited the practice of "high-balling" broker price opinions in order to cause a lender to reject a short sale, and obtain the listing on the foreclosure property; and required clear and timely disclosure of the multiple roles a real estate broker may play in a real estate transaction (such as brokering the mortgage and representing the buyer or seller, or both, in the same transaction). SB 1054 failed passage in the Assembly Banking and Finance Committee. Its contents were amended into SB 1737 (Machado), which was signed by the Governor.

AB 512 (LIEBER) Held in Senate Banking, Finance and Insurance Committee

This bill was heard by the Committee twice. In 2007, the Committee passed a bill that would have required supervised financial organizations, as defined, to provide translations of specified mortgage loan terms to consumers, on forms developed for that purpose, by rule, by the Secretary of the Business, Transportation and Housing Agency.

In 2008, the Committee held a bill that would have required supervised financial organizations, as defined, that negotiated any material term of a contract or agreement, in one of five listed foreign languages, to provide either an approved disclosure form or a translated copy of the contract or agreement to the borrower; required all mortgage contracts to contain a specified notice in six different languages; subjected violators of the bill to specified penalties for failure to comply; and given aggrieved borrowers certain rights to rescind loan contracts.

AB 941 (TORRICO) Passed the Senate Banking, Finance & Insurance Committee, but was later amended to deal with the topic of emergency medical technicians, and vetoed by the Governor in that later form

As heard and passed by this Committee, would have required DRE, with the cooperation of DFI and DOC, to review the real property transaction disclosure process and report to the Legislature, as specified, with recommendations on how the process can be improved to ensure a consumer's ability to better understand the terms of the transaction, including the terms of his or her mortgage loan

AB 2161 (SWANSON) Held in Senate Appropriations Committee

Would have required the Commissioner Corporations, on or before January 1, 2010, and annually thereafter, until January 1, 2012, to submit specified reports to the Legislature regarding complaints received by licensees under the California Finance Lenders Law and California Residential Mortgage Lending Act, regarding nontraditional and subprime loans.

AB 2359 (JONES) Failed passage in Senate Banking, Finance and Insurance Committee

Would have prevented mortgage lenders and mortgage brokers from requiring borrowers to enter into mortgage loan agreements for covered, subprime or nontraditional loans, in which the borrowers are forced to waive certain legal rights.

AB 2509 (GALGIANI) Held in Senate Banking, Finance and Insurance Committee

Would have established the Homeownership Preservation Mortgage Guarantee Program, administered by the Business, Transportation & Housing Agency, and using federal funding made available through the Neighborhood Stabilization Act of 2008 (HR 5818), to guarantee refinanced mortgages made to low- or moderate-income homeowners who are at risk of foreclosure.

AB 2740 (BROWNLEY) Failed passage in Senate Banking, Finance and Insurance Committee

Would have imposed additional, specified duties on mortgage loan servicers, primarily related to the imposition of fees by servicers, and notification of borrowers by servicers, regarding payments received on the borrowers' loans, and would have established additional civil liability for servicers who violated the provisions of the bill.

PAYDAY LENDING

BILLS SIGNED INTO LAW

AB 7 (LIEU) Chapter 358, Statutes of 2007

Authorizes DOC to enforce federal protections related to consumer lending and payday lending by providing enforcement authority under the California Finance Lenders Law and California Deferred Deposit Transaction Law; directs state-chartered banks and credit unions to comply with federal law related to making refund anticipation loans to the military; and states that financial institutions which choose not to make loans, which are subject to provisions of specified federal law, to members of the military, are not subject to the anti-discrimination provisions of the Military and Veterans Code.

AB 634 (C. CALDERON) Chapter 235, Statutes of 2007

Clarifies the definition of a deferred deposit transaction under the California Deferred Deposit Transaction Law as a transaction in which a person defers depositing a customer's personal check until a specific date, pursuant to a written agreement, *for a fee*. The words "for a fee" were intended to clarify that merely accepting a post-dated check from a customer does not require a merchant to obtain a license as a deferred deposit transaction provider.

BILLS NOT SENT TO THE GOVERNOR

SB 1551 (CORREA) Failed in Senate Judiciary Committee

Would have enacted all or a portion of nine of the twelve recommendations related to regulatory oversight that were included in a report provided by the Department of Corporations to the Legislature regarding oversight of the California Deferred Deposit Transaction Law.

AB 1534 (NUNEZ) Died on Senate inactive File

Would have expanded the information the Commissioner of Corporations was required to include in his report to the Governor and Legislature on payday lending, and extended the due date of the report by one year, to December 1, 2008. Would also have provided customers a one day right of rescission for payday loans, allowed payday loan customers to utilize an extension of

time or a payment plan at least once in a 12-month period; required licensees to inform their customers of these rights within their loan agreements; required payday loan licensees to implement procedures to inform consumers of the intended uses of payday loans.

ESCROW LAW

BILLS SIGNED INTO LAW

SB 1604 (MACHADO) Chapter 285, Statutes of 2008

As passed by the Committee, the bill prescribed the content of employment applications required under the California Finance Lenders Law (CFLL) and California Residential Mortgage Lending Act (CRMLA), increased the minimum net worth and surety bond requirements for CFL licensees to varying amounts based on the nature of lending in which a CFL licensee is engaged; and required CRMLA licensees to notify the California Corporations Commissioner, in a timely manner, prior to closing a business location or branch office. After hostile amendments were imposed on the bill by the Assembly Judiciary Committee, the author chose to delete the contents of the bill and replace it with the contents of SB 1286.

As sent to the Governor, SB 1604 requires that any private insurance policy maintained by an escrow agent be applied as primary coverage, in the event of a loss covered by both the private insurance and the Escrow Agents' Fidelity Corporation (EAFC); clarifies the procedures that must be followed by a person who has had their EAFC Certificate revoked or their EAFC Certificate application rejected, before they may reapply for an EAFC Certificate; and requires Escrow Law licensees who use the services of accountants, bookkeepers, or depository institutions, to request that these accountants and depository institutions notify the DOC and EAFC about certain items that could indicate the licensees were experiencing financial difficulty.

AB 804 (HUFF) Chapter 237, Statutes of 2007

Enacts various changes to the laws involving independent escrow agents, some of which are technical, some of which are intended to ease compliance burdens for licensed escrow agents, and some of which are intended to be pro-consumer. Among the changes enacted by the bill: deletes the requirement that a licensee who surrenders his/her license submit a closing audit to DOC within 105 days after the effective date of license surrender, and instead requires an escrow agent to submit a closing audit to DOC before license surrender, and requires DOC to approve the report as a condition of the surrender; authorizes an escrow agent to charge a fee for administering an escrow that has been postponed for at least two months beyond the most recent closing date agreed to in writing, or that has been cancelled, provided the postponement or cancellation resulted from the acts or omissions of the parties to the escrow, and the fee is disclosed in the written escrow instructions and agreed to by all parties; and makes a violation of the Real Estate Settlement Procedures Act or its regulations by any escrow licensee or any director, stockholder trustee, officer, agent, or employee of that licensee a violation of the Escrow Law.

AB 2323 (HUFF) Chapter 262, Statutes of 2008

Expands the background checks currently required to be performed on applicants for an escrow agent license and an Escrow Agents Fidelity Corporation (EAFC) certificate from a state-only background check to a state and federal background check, and requires the information returned from the background checks to be given to DOC and EAFC.

BILLS NOT SENT TO THE GOVERNOR

SB 1286 (MACHADO) Failed passage in Assembly Banking and Finance Committee

Would have required that any private insurance policy maintained by an escrow agent be applied as primary coverage, in the event of a loss covered by both the private insurance and the Escrow Agents' Fidelity Corporation (EAFC); clarified the procedures that must be followed by a person who has had their EAFC Certificate revoked or their EAFC Certificate application rejected, before they may reapply for an EAFC Certificate; and required Escrow Law licensees who use the services of accountants, bookkeepers, or depository institutions, to request that these accountants and depository institutions notify the Department of Corporations (DOC) and EAFC about certain items that could indicate the licensees were experiencing financial difficulty.

LENDING LAW ADMINISTRATION

BILLS SIGNED INTO LAW

SB 998 (COX) Chapter 101, Statutes of 2007

Enacts several changes to the laws administered by the Department of Corporations (DOC), with the aim of streamlining certain burdensome requirements on licensees, clarifying uncertainties in existing law, and improving DOC's ability to fully enforce the laws under its jurisdiction. Among some of the bill's changes: it prohibits making false statements to the Commissioner during an investigation or an examination conducted by the Commissioner and gives the Commissioner the ability to bar officers and directors of a company from holding a DOC license or from offering securities or franchises for sale in California, subject to a finding that the officer or director had committed specified bad acts.

SB 1037 (CMTE. ON BANKING, FINANCE, & INSURANCE) Chapter 99, Statutes of 2007

Makes technical corrections and clarifications to various sections of the Financial Code administered by the Department of Financial Institutions.

AB 1301 (GAINES) Chapter 125, Statutes of 2008

Updates, organizes, and rearranges the California Banking Law, to improve DFI's ability to administer the law, and to ease both understanding of, and compliance with, the law by licensees.

AB 1508 (LIEU) Chapter 242, Statutes of 2007

Streamlines certain procedural requirements under the Money Transmitters Law, more closely aligning that law with laws governing the issuance of travelers checks and money orders, and gives DFI greater ability to take prompt corrective action against licensed money transmitters found to be operating improperly.

AB 1518 (COMMITTEE ON BANKING AND FINANCE) Chapter 148, Statutes of 2007

Enacts changes intended to modernize the Credit Union Law, by allowing credit unions to share the results of their regulatory examinations with more professionals, belong to economic development and trade organizations, make larger gifts and donations, make loans on which one member and one non-member cosign, and establish executive committees with broader responsibilities than those provided for under current law.

AB 2749 (GAINES) Chapter 501, Statutes of 2008

Reorganizes sections of the Financial Code relating to the powers of the Commissioner of the Department of Financial Institutions, and makes other technical changes intended to ease administration of the law by DFI.

MISCELLANEOUS

BILLS SIGNED INTO LAW

SB 344 (MACHADO) Chapter 3, Statutes of 2008

Provides that the purchase or other acquisition of bonds by, or on behalf of, the state or a local government that issued the bonds does not cancel, extinguish, or otherwise affect the bonds.

SB 1007 (MACHADO) Chapter 708, Statutes of 2008

Defines the term “exchange facilitator” (EF) to describe a person that facilitates exchanges of real property called Section 1031 exchanges, enacts bonding, insurance requirements, and other rules intended to ensure that exchange facilitators safeguard consumers’ money, and prohibits certain acts by exchange facilitators doing business in California.

SB 1065 (CORREA) Chapter 283, Statutes of 2008

Allows cities and counties to use revenue bond funds to make or purchase refinanced mortgages on owner-occupied homes owned by persons whose incomes were below specified low- and moderate-income criteria. Requires that any mortgages made or purchased using local government revenue bond funds be federally guaranteed, federally insured, or eligible to be purchased by either Fannie Mae or Freddie Mac. When it passed the Committee, the bill applied

the federal insurance/guarantee/Fannie or Freddie eligibility requirement to all mortgages made or purchased using local revenue bond funds. The bill was later amended in the Assembly to apply the federal insurance/guarantee/Fannie or Freddie eligibility requirement only to mortgage refinancings.

SB 1409 (ACKERMAN) Chapter 177, Statutes of 2008

Authorizes Securities and Exchange Commission (SEC) filers that are required under California law to transmit an annual report to their shareholders, to do so by complying with the SEC's Notice of Internet Availability of Proxy Materials, which allows proxy materials to be provided over the Internet.

AB 1528 (COMMITTEE ON BANKING AND FINANCE) Chapter 363, Statutes of 2007

Prohibits any person or entity licensed under the Business and Professions Code, Corporations Code, Financial Code, or Insurance Code, except for a bank or a credit union, from marketing financial services or products to specified members of the military or their spouses in a misleading or deceptive manner that suggests an affiliation or other association with the military or the Department of Veterans Affairs. Makes a violation of the bill a violation of the licensing law under which that person or entity is licensed.

AB 1533 (COMMITTEE ON BANKING AND FINANCE) Chapter 336, Statutes of 2007

Makes changes intended to improve the state's ability to sell revenue anticipation warrants (RAWs) at rates favorable to the state. Specifically, the bill authorizes the Controller to sell RAWs either at public sale or through negotiated sale, and provides that the interest rate must be fixed if sold through public sale, but that the interest rate may be fixed or variable if sold through negotiated sales; requires the Controller to sell RAWs to the best bidder(s) if they are sold through public sale, and on the basis of terms and conditions approved by the Controller if sold through negotiated sales; and requires the Controller to notify the Chair and vice Chair of the Senate and Assembly Budget Committees and Appropriations Committees and the Chair and vice Chair of the Joint Legislative Budget Committee, at the time the Controller submits a written request to issue RAWs to the Governor, and no later than 15 days following the completion of a RAW issuance.

AB 2149 (BERG) Chapter 476, Statutes of 2008

Prohibits a broker-dealer or investment adviser from using senior-specific certification, credential or professional designation indicating that he or she has special training in advising or servicing senior citizens or retirees in such a way as to mislead, as specified.

AB 2249 (NIELLO) Chapter 234, Statutes of 2008

Authorizes depository institutions to provide the Franchise Tax Board with information, for the purpose of allowing FTB to collect improperly deposited tax refunds from people to whom the refunds should not have gone, and timely credit the accounts of people to whom the refunds

should have gone, and corrects a chaptering-out error involving the provision of information to a county adult protective services office or long-term care ombudsman.

BILLS VETOED

AB 264 (MENDOZA)

Would have increased the limits on the compensation pawnbrokers are allowed to charge for their services.

AB 1418 (ARAMBULA)

Would have required the DFI Commissioner to develop a Credit Union Membership Investment Model, provide annual reports on credit unions' progress in implementing the model, and would have required the Secretary of Business, Transportation and Housing to prepare a list of significant commitments made by federally and state-chartered banks related to community investment.

AB 2105 (DESAULNIER)

Would have added licensees under the California Finance Lenders Law and California Residential Mortgage Lending Act, and their employees, to the list of those who are mandated reporters of suspected financial abuse of elder and dependent adults, and added financial elder and dependent adult abuse signs and reporting requirements to the electives offered to real estate licensees as part of their required continuing education requirements for licensure.

AB 2123 (LIEU)

Would have established the California Financial Literacy Initiative, administered by the State Controller; authorized the Controller to convene a Financial Literacy Advisory Committee; required the Controller to establish and oversee a California Financial Services Corps, subject to the availability of resources for that purpose; and required the Controller to make annual reports to the Legislature regarding financial literacy programs.

BILLS NOT SENT TO THE GOVERNOR

SB 638 (ROMERO) Held in Senate Banking, Finance and Insurance Committee

Would have allowed state-chartered credit unions to sell travelers checks, money orders, and international money transfers to, cash checks and money orders for, and receive international money transfers, for nonmembers in their fields of membership, for a fee.

SB 1678 (FLOREZ)

Failed passage in Senate Banking, Finance and Insurance Committee

Would have enacted the Debt Settlement Services Act, for the purpose of licensing debt settlement service providers.

AB 251 (DESAULNIER) Failed passage in Senate Banking, Finance and Insurance Committee

Would have prohibited a corporation from issuing a dividend to its shareholders if the company had failed to make a payment under its defined benefit plan, and would have imposed liability on shareholders, directors, and officers of a corporation, related to improperly issued dividends.

AB 2611 (LIEU) Held in Senate Banking, Finance and Insurance Committee

Would have enacted the Debt Settlement Services Act, to regulate the provision of debt settlement and debt management services in California.

2007– 2008 INFORMATIONAL HEARINGS

BANKING AND FINANCE:

January 31, 2007, “Nontraditional Residential Mortgage Products”: In its first of five mortgage-related hearings, the Committee focused on the Guidance on Nontraditional Mortgage Product Risks, which was issued by the five federal banking agencies in September 2006. During the hearing, the Committee heard from mortgage lenders, mortgage brokers, consumer advocates, state and regulators, housing counselors, and an economics professor. Among the key questions explored during the hearing: Should California apply the federal Guidance on Nontraditional Mortgage Product Risks to its state mortgage lender and broker licensees? Should the guidance be expanded to cover subprime hybrid adjustable rate mortgages (ARMs)? If federal guidance on subprime hybrid ARMs was issued, should California adopt it, as well. A final report summarizing the hearing testimony, reprinting the agenda and background paper, and incorporating written testimony received from witnesses was published by the Committee in February 2007.

March 26, 2007, “Reactions to the Recent Subprime Mortgage Collapse”: In the eight weeks following the Committee’s January 31, 2007 hearing, California’s subprime mortgage market was shaken to its core. Over twenty subprime lenders shut their doors and ceased making new loans. The share prices of those lenders whose stock was still trading fell precipitously. Early payment defaults and foreclosure rates rose to levels unseen in years, and media reports on the growing crisis worsened from one day to the next. In March, the Committee reconvened for a second discussion about the mortgage market, to hear from a panel of experts about the likely impacts of the deepening mortgage crisis. State regulators, collegiate and industry economists, real estate professionals, and consumer groups addressed the Committee. The key topic discussed by panelists: What short-, medium-, and long-range impacts can California expect to see as a result of the subprime market failures?

August 21, 2007, “Preserving the American Dream: Homeownership Preservation and the Subprime Mortgage Crisis”: The first two mortgage-related informational hearings held by the Committee during 2007 focused primarily on identifying the steps that needed to be taken to halt the issuance of risky loans which were causing market disruptions. In August, the Committee redirected its focus to borrowers who were in danger of losing their homes to foreclosure. Among the questions debated during the hearing: What are lenders and servicers doing to help keep borrowers from default and foreclosure? How does mortgage securitization impact a lender’s ability to work with a borrower to avoid foreclosure? What steps, if any, can California take to lessen the barriers to loan forbearance and/or modification? How can California facilitate the work of housing counselors in helping borrowers avoid default and foreclosure? The Committee heard from eighteen witnesses during this hearing, including economists, securitization experts, state and federal regulators, lenders and servicers, housing counselors, and consumer advocates. A final report summarizing the hearing testimony, reprinting the agenda and background paper, and incorporating written testimony received from witnesses was published by the Committee in September 2007.

January 16, 2008, “Mitigating the Effects of California’s Mortgage Crisis: A Discussion of Foreclosure Avoidance Efforts”: The Committee revisited the topic of homeownership preservation in January 2008, by reviewing foreclosure avoidance plans announced by Governor Schwarzenegger and President Bush, and proposed by Federal Deposit Insurance Corporation Chair Sheila Bair in November and December 2007. The hearing explored the extent to which these plans were expected to help California borrowers at risk of losing their homes, and the extent to which significant numbers of California borrowers remain out in the cold, ineligible for the plans, and unable to refinance their unaffordable mortgages in an increasingly illiquid credit environment. The Committee heard from the state and federal regulators and industry participants who were the architects of the plans, as well as from other industry participants and from consumer advocates. During the hearing, the Committee also sought input from housing counselors at the center of efforts to help connect borrowers with loan servicers. The counselors were asked to share their opinions about whether the situation for borrowers had improved since the prior August, when it was, in the words of all of the counselors from which the Committee heard, dismal. A final report summarizing the hearing testimony, reprinting the agenda and background paper, and incorporating written testimony received from witnesses was published by the Committee in February 2008.

March 5, 2008, “Impact of and Reactions to Proposed Regulation Z Revisions”: In December 2007, the Federal Reserve Board (FRB) proposed several changes to the federal regulation (Regulation Z) that implements two of the nation’s most broadly applied federal mortgage lending laws, the Truth in Lending Act and the Homeownership Equity Protection Act. The Regulation Z changes apply to all mortgage lenders and loan originators, regardless of whether the industry participants are state- or federally-regulated. Some examples of those who are subject to Regulation Z, and who will be required to comply with any changes to the regulation, include the following: national banks, state-chartered banks, federal thrifts, federal credit unions, state-chartered credit unions, state finance lenders, state residential mortgage lenders, and state mortgage brokers.

In March 2008, the Committee reviewed the proposed changes to Regulation Z, with the goal of determining how these changes are likely to impact mortgage brokering and lending in California. This hearing was purposefully scheduled before the Board’s 90-day public comment period ends, to give legislators who wish to comment on the proposal an opportunity to do so, using information they learned during the hearing. During the hearing, the Committee heard from a representative of the FRB, state regulators, members of industry groups that would be affected by the regulation, and consumer advocates.

March 26, 2008, “Review of Department of Corporations (DOC) Reports on the Payday Loan Law”: On March 10, 2008, the DOC released two reports to fulfill its requirements under Financial Code Section 23057. The two reports are titled, “California Deferred Deposit Transaction Law, California Department of Corporations, December 2007” and “2007 Department of Corporations Payday Loan Study, December 2007, submitted to the California Department of Corporations by Applied Management Planning Group (AMPG), in conjunction with Analytic Focus.”

On March 26, 2008, the Committee held a joint hearing with the Committee on Judiciary to hear from DOC and AMPG about both reports, and to solicit input on the reports' findings and recommendations from a variety of interested parties with wide-ranging views on the appropriate role and future of the payday lending industry in California. Witnesses included the DOC Commissioner, representatives from AMPG and Analytic Focus, consumer advocates, and representatives of the payday lending industry.

INSURANCE:

March 28, 2007, "State Compensation Insurance Fund: Examination of Operations":

This hearing examined allegations of financial and operational improprieties involving senior State Compensation Insurance Fund (SCIF). SCIF is the legislatively created workers' compensation insurer for the state and for thousands of businesses who can't get workers' compensation insurance anywhere else. It is the largest single line insurer in the state, but it is also an arm of the state. Its employees are civil servants, but SCIF is expected to operate like a business, and to be "neither more nor less than self-supporting." In the fall of 2006, two board members voluntarily resigned after conflict of interest concerns were raised—the board members were owners or had a financial interest in insurance brokers or associations receiving substantial payments under the Group Association Program. The SCIF Board of Directors then hired an outside legal firm to conduct an internal examination and audit, and in March of 2007, the Board fired several executives, including the President and an Executive Vice President. The Insurance Commissioner, shortly before this hearing, directed his financial examiners to expand an ongoing Department of Insurance (DOI) financial review of SCIF to include a complete governance review, including the findings of the Board's independent review. The Insurance Commissioner also ordered SCIF to provide an operational game plan for going forward within 15 days and several specific steps the Board must take. Questions had been raised about the operations of the SCIF for years, but its strange hybrid nature led to a culture of insiders and secrecy about its operations. Boards in the past had little power, or seemingly will, to effect change. This hearing was the first step in an ongoing legislative process to scrutinize SCIF and identify those steps the Legislature should take to make sure SCIF works in an open and honest way for the benefit of all Californians. The committee promised to hold another hearing when the results of the DOI audit of SCIF operations was completed. That hearing was held in February of 2008.

February 6, 2008, "State Compensation Insurance Fund: Review of Operational and Financial Audit Results and Next Steps": This hearing was a follow-up to the March, 2007 hearing on allegations of wrongdoing at SCIF. An examination begun in 2007 by an outside firm ordered by the SCIF Board of Directors uncovered serious abuses at SCIF's highest levels and led to a joint criminal inquiry by the DOI, the California Highway Patrol and the San Francisco District Attorney's office that, as of November 2008, is still ongoing. This hearing focused primarily on the results of a full operational and financial audit of SCIF by an outside firm, RSM McGladry, ordered under the regulatory authority of the DOI. That audit, completed in December 2007, provided a scathing review of an organization run amok, with poor business and accounting practices throughout the organization. A committee background report on the audit can be found at

http://www.sen.ca.gov/ftp/sen/committee/standing/banking/info_hearings/backgrounds/2-06-08_scif_audit.doc.

The full text of the DOI audit can be found at:

http://www.insurance.ca.gov/0400-news/0100-press-releases/0060-2007/upload/Operational_20Review_20Rpt.pdf

The full text of the SCIF response to the audit can be found at:

<http://www.scif.com/pdf/FullResponse.pdf>

The committee examined the results of that audit and its recommendations for reform of SCIF, leading to legislation (SB 1165 Machado, Chapter 344, Statutes of 2008 and AB 1874 Coto Chapter 322, Statutes of 2008) to reform SCIF operations, expand and professionalize its board of governors, and subject it to open government laws.

February 20, 2008, “The Growing Life Settlement Industry: Is Anyone Watching Out for Consumers?”: This hearing was held to familiarize the members of the Committee and the public with the life settlements industry, its players, some of its implications for the life insurance and financial markets, and with some of the key issues the Legislature will be called upon to consider as it decides whether or how to regulate this new and largely unregulated industry. A life settlement is a complex financial transaction in which a policyholder possessing a life insurance policy sells the policy to a third party for more than the cash value offered by the life insurance company. The purchaser becomes the new beneficiary of the policy at maturation and is responsible for all subsequent premium payments. Capital from hedge funds, investment banks and pension funds in search of higher returns is flowing into the life settlement market. The life insurance industry claims that the buying and selling of life insurance policies in a secondary market distorts the very purpose of life insurance by breaking the “insurable interest” link between an insurer, policyholder and beneficiary. In addition, some argue it undermines the lapse-based pricing structure used by most insurance companies, and could lead to higher prices across the board for life insurance. The life settlement industry argues that seniors can only benefit by allowing them to capitalize on a previously little used asset that they might otherwise simply let lapse or surrender for substantially less than they would receive in a life settlement when the policy is no longer needed or wanted. Many important public policy issues are touched in the debate over regulation, from the purpose and function of life insurance, to the rights individuals have to maximize all their personal and financial assets. It also raises questions about the potential for the financial abuse of seniors, as they are solicited to sell existing life insurance policies, purchase life insurance policies to sell to investors, or to invest in life settlements with promises of high financial returns. In response to the hearing, the Committee Chair, Senator Machado, introduced SB 1224, the Life Settlement Consumer Protection Act of 2008. That bill was later amended into SB 1543 (Machado) on the Assembly Floor. SB 1543 was sent to the Governor with broad bi-partisan and industry support, but was vetoed by the Governor.

March 10, 2008, “California Insurance Guaranty Association: Operational and Governance Issues”: In June, 2007, the California Insurance Guaranty Association (CIGA) hired John Williams, CPA, to conduct a review of CIGA’s internal controls and procedures. Mr. Williams was recommended to CIGA by KPMG, which performs CIGA’s annual financial audit. Among the findings in his initial slide show report to the CIGA Board of Governors in November 2007 were that CIGA may have over-paid for some contracted services by more than \$55 million over a seven year period, and potentially other significant overpayments for more than \$200 million in legal and other services that were never reviewed or audited. In December, 2007 two CIGA

board members wrote joint letters to Attorney General Jerry Brown, Treasurer Bill Lockyer, Insurance Commissioner Steve Poizner, Senator Lou Correa and Assembly Speaker Fabian Nunez, detailing findings of the internal review and calling for an investigation. On January 7, 2008, Wayne Wilson, Executive Director of CIGA, wrote the recipients of the December letters and provided background information and a discussion of current issues at CIGA. His letter also made a commitment to “investigate internal controls and make any improvements necessary.” Mr. Williams appeared before the CIGA Board on January 17, 2008 to fully discuss his review and recommendations. He provided a full written report to CIGA on February 20, 2008. CIGA provided this Committee, at its request, with copies of the initial slide show, the final written report, and the CIGA Internal Controls Improvement Plan in response to Mr. Williams’ recommendations. This hearing examined the internal review and findings; heard a response and a report from CIGA on corrective actions it was undertaking; and examined those corrective actions and identify any changes that the Legislature might need to take to respond to identified problems in CIGA’s organization and operations. As a result of this hearing, the Committee Chair, Senator Machado, introduced SB 1467 to require meetings of the CIGA board of governors, and its investment and audit committee, to be open to the public with exceptions for closed meetings. That bill was signed by the Governor.