

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

2005 – 2006 LEGISLATIVE SUMMARY

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A Letter from the Chair

October 17, 2006

Dear Colleague:

In the 2005-2006 Session, 167 bills and resolutions were referred to the Senate Banking, Finance and Insurance Committee. While all legislation is important, the committee spent a great deal of time during this session on the subject of health insurance.

Health insurance bills ranged from the single but very important subject of ensuring that HIV-positive patients have access to organ transplants to the broadest of all possible health insurance topics—universal coverage. Absent from this session's list of health insurance issues were problems resolved by actions of the committee in prior sessions.

For example, at one point in the early 2000's, patients were experiencing serious, at times life-threatening, disruptions in access to care as provider groups went bankrupt and patients had to put their treatments on hold while insurers coped with the chaos. This threat to health was halted by laws enacted by the hearings of, and legislation reviewed by, this committee. Similarly, consumer complaints about inappropriate denials of recommended medical treatment have largely disappeared after passage of legislation creating the Department of Managed Health Care and the independent medical review process—both changes to law crafted largely by this committee.

While changes have eliminated or reduced many problems, others remain. Payment for emergency room services remains a significant problem in the provision of health care and health care coverage, and one that the committee should focus on next session.

During the past two years, the committee also heard bills related to banking and finance issues. Members of the military requested that California establish stricter standards regarding payday lenders and members of the military. Ultimately, this legislation failed passage but Congress later acted to give the military new authority to deal with payday lenders.

Also this session, a comprehensive audit was requested of the Department of Corporations. The findings supported the addition of investigators to the staff of the department. The Senate Budget Committee added this item to the budget request of the department. The department's enforcement capacity is therefore being rebuilt.

This committee conducted three oversight hearings during this two year session. As a result of two oversight hearings of the Department of Insurance, the department finished its auto rating factor regulations six to eight months in advance of the original timeline. This action provided relief to millions of Californians who saw their rates decline even as many insurers claimed that the opposite would happen, and as they also sued the department to forestall the implementation of the new regulations. In addition, a focus during hearings on the problems of auto body repair and insurer and consumer relations brought some movement toward resolving auto body repair disputes. While legislation authored by me and the Vice-Chair failed passage, the department began to intensively investigate complaints about a handful of insurers, once hundreds of unresolved complaints submitted to the department were presented in hearings to the Insurance Commissioner (IC). The market conduct examinations continue as this report is being prepared.

Several bills dealing with auto body repair, in addition to the bill authored by the Chair and Vice-Chair, were referred to the committee. Ultimately, no bill made it to the Governor's desk. However, putting substandard parts on a car could literally cost someone their life if airbags don't deploy on time, metal doesn't bend as the manufacturer expected or if the repairs are otherwise done improperly. Ultimately, consumers don't want inexpensive auto insurance if the tradeoff is the death of a loved one in an auto accident.

In other action, Vice-Chair Cox and I joined to request an audit of the Executive Life estate and its management by the Department of Insurance. The audit results were being completed as this report was being prepared.

The committee also held a hearing on the problem of consumer privacy and violations of that privacy through breaches at ChoicePoint, a major national data broker. This hearing was held on March 30, 2005 and was entitled "After the Breach: How secure and accurate is consumer information held by ChoicePoint and other data aggregators?" In early February of 2005, 35,000 California residents received a letter from the data broker, ChoicePoint, alerting them that "a recent crime against ChoicePoint...MAY have resulted in your name, address, and social security number being viewed by businesses that are not allowed to access such information." The committee was one of the first in the nation at which a senior ChoicePoint executive and executives from other data brokers responded to questions both about the security of information held by data brokers and the uses of that information under normal conditions.

This final letter as Chair of the committee is a bit longer than in the past. There is so much work left to do to protect California's consumers. I want to thank my colleagues throughout the years, including my distinguished Vice-Chairs Senator Cox, Senator Morrow, and Senator Johnson and all the Senators who have served as members of the Committee. I want to thank the people of California for the privilege of serving, and I hope that the performance of the committee during my eight years as Chair has demonstrated that the people's work can be done through this Legislature.

During my term as Chair, we have steadfastly protected the interests of consumers, from investigating the corrupt actions of a former Insurance Commissioner, to helping settle hundreds of thousands of dollars of claims by insured from the Northridge earthquake and 2003 firestorms, to crafting a legal environment that favors consumers, to ensuring that the industry's finances remain healthy so that it can meet its obligations to its customers. It is the proper role of those who seek a seat on this committee to protect consumers, whether the subject is health insurance, other types of insurance or banking. Consumers are not the sophisticated parties in an insurance or financial transaction. As novices in these sometimes complex markets, they deserve the protection of the law to ensure that contracts and disclosures are clearly made, and that there is genuine value to the insurance and financial products being offered to them. As has been true for the past eight years, I hope that protecting consumers will always remain the focus of this committee in the years ahead.

All the best,

Jackie Speier, Chair
Senate Banking, Finance & Insurance Committee

An open discussion of the California Earthquake Authority

As I prepare to leave office, the *San Francisco Chronicle* has a front-page article on the impact of a massive earthquake upon the Bay Area.¹ In my early years as Chair, I authored legislation to change the California Earthquake Authority (CEA). My legislation was defeated due to insurer opposition.² I decided that I couldn't come to an agreement with the insurers because the time simply wasn't ripe for a discussion about the CEA's finances. The Northridge quake and its losses were too recent for insurers to get into a discussion about disaster recovery and insurance. Last year, of course, Hurricane Katrina hit New Orleans. This natural disaster illustrates the critical role played by property insurance as part of the larger economic development strategy of a state, and it also opens up a window of opportunity for future California legislators.

In my judgment, the CEA isn't well positioned to play its crucial role because its finances are not properly structured for a post-disaster time-period. The CEA remains a *problem* in search of a *disaster*, and unfortunately it will find it unless California changes its law. Here's why.

The *Chronicle* article notes that there is a 62% probability of a magnitude 6.7 quake or greater in the Bay Area before the year 2032. According to the CEA's own data, such a quake on the Southern Hayward fault would produce CEA-insured losses of about \$2 billion and *uninsured residential losses of nearly \$28 billion*. This is the **first** CEA-related disaster: the widespread lack of insurance for this inevitable disaster. Only 12% of all California homeowners carry earthquake insurance. The typical homeowner simply doesn't believe that earthquake insurance is worth the money, and there's some justification for that sentiment. The standard deductible on a CEA policy (15%) is so large given current coverage limits on a Bay Area or Los Angeles home (often \$400,000 or more) that many quakes won't cause \$60,000 or more in damage.³ The sum is a staggering sum for most families to pay, but they have an expectation that they won't actually have to pay it.

What homeowners expect, instead, is "Presidential Helicopter Insurance"--- a federal bailout led by the President of the United States after the President tours a quake-damaged disaster area via helicopter. But that's what the homeowners of New Orleans also expected after Hurricane Katrina.

What we now know is that federal funds and international charity are insufficient. Many New Orleans homeowners simply went bankrupt, abandoned their property or sold at distressed prices. The population of New Orleans one year after Hurricane Katrina is about *1/3* its pre-Katrina population. Not all the missing population is composed of homeowners, but many were, in fact, long-time residents who owned their homes. If uninsured residential losses hit \$28 billion in a California quake, these losses could prompt widespread population dislocations, too.

Yet, encouraging the public to purchase CEA insurance would further exacerbate the CEA's peculiar financial problems- which I believe is the **second** CEA-related disaster. A key component of the CEA's financing is an insurer assessment that is scheduled to sunset at the end of 2008. Once that assessment is

¹ October 17, 2006. I'm sure that a similar scenario, with similar figures, could be offered for the Los Angeles basin as well.

² SB 706, 2001-2002 session.

³ The benefits under an earthquake policy before the Northridge quake were significantly different. Many policyholders had policies that had very low deductibles so that nearly all major quake-related damage was paid for by insurance. This type of policy isn't offered in California anymore because it bankrupted one carrier and wiped out several others. The legislature has approved reduced benefits under an earthquake policy by authorizing high-deductible, "mini-policies" that are now the norm for policyholders.

gone, and once the CEA's own funds and reinsurance are gone, the CEA must borrow money in the open market to pay claims.

Consider the quake discussed above. The CEA has about \$2.4 billion "in the bank" now and it earns a bit less than \$200 million per year.⁴ If no quakes happen for the next two years and the insurer assessment law sunsets, the CEA will be left with about \$3 billion of its own money to pay claims, plus reinsurance that must be paid for out of its earnings each year. If a \$2 billion quake hit two years from now the CEA would use about 2/3 of its own money to pay claims. This would mean that a second large quake would probably wipe out the CEA's own funds because 14 of 16 quakes of any size studied for the CEA have anticipated CEA claims costs in excess of \$3 billion.

If the CEA wanted to avoid wiping out 2/3 of its own money after the quake, it could borrow \$2 billion, although current law would have to be changed.⁵ It may even be smart marketing to borrow the money after a quake and when it already has \$2 billion on hand because all past evidence points to a huge increase in consumer demand for earthquake insurance after an earthquake occurs. Building the repayment of the loan into the premium when demand soared could also help to spread the costs of the loan over a bigger universe of policyholders. Borrowing \$2 billion at 4.0% interest requires payments of about \$250 million per year compared to existing CEA revenue of about \$500 million per year—about a 50% increase in premium.⁶

So, at least two public policy questions exist for future legislators. After a massive earthquake generates at least \$2 billion in CEA-insured residential losses and \$28 billion in uninsured losses, would homeowners who live near earthquake faults feel so threatened that they would buy CEA coverage knowing that CEA would only be able to cover a fraction of needed future funding? In the alternative, would homeowners be willing to pay for the insurance—after CEA borrowing—when it costs 50% more than at present? In my judgment, neither is likely to happen.

Absent changes in current law, what is most likely to happen following a massive quake is that the Legislature will be faced with three choices: 1) Shore up the CEA by offering the CEA a loan or loan guarantee, probably from the General Fund; 2) Allow earthquake insurance to once again be the sole responsibility of private insurance companies and abolish the CEA; 3) Repeal the law that requires earthquake insurance to be offered with homeowners insurance. We already know that most private insurance companies don't want to be forced to carry earthquake coverage on their own books because it could wipe out a company. In addition, "de-linking" homeowners insurance from earthquake insurance simply leaves more Californians without earthquake insurance when a future disaster strikes.

I believe the Legislature and the Senate Banking, Finance and Insurance Committee should consider confronting the problem of the CEA's funding *before* the Big One hits. The next Legislature should consider amending California law to permit the CEA to issue guaranteed bonds, in advance of an earthquake, backed by the State's General Fund.⁷ Perhaps a guarantee offered by a new federal loan guarantee program for public-enterprise funds like the CEA should be created. Perhaps bonds backed by

⁴ Total equity \$2.4 billion as of June 2006 unaudited statements:

http://www.earthquakeauthority.com/PDFS/Financial%20Statements/06-30-06_Financial_Statements.pdf

⁵ Current law wouldn't permit the CEA to borrow to pay claims if CEA already had the money on hand- see the statutory description of the CEA's layer-cake financing as set forth in Insurance Code Section 10089.4 et seq. and in particular Section 10089.23 et seq.

⁶ Repayment assumes monthly repayments and level repayment schedule rather than annual repayment, no fees, and the current municipal bond rate of about 3.91% for ten year bonds.

⁷ This would also require approval by the voters because of the General Fund obligation guarantee.

private default insurance could be arranged for in advance of the quake actually happening.⁸ Any bond guarantee would allow the CEA to borrow money at favorable rates and in increments that would reduce increases in premiums.

In addition, the Senate Banking, Finance and Insurance Committee may want to review whether or not CEA-member insurers should be required to participate in a gradual phase out of the first insurer assessment rather than the abrupt sunset scheduled for two years from now. With \$3 billion in the “CEA bank” already, and given current deductibles under a CEA policy, a large quake isn’t likely to require a significant insurer assessment even if the event happens in the next few years.

The committee may want to consider authorizing state tax-exempt savings accounts for those capable of saving towards disasters, and the state’s Congressional delegation should be asked by the Legislature to seek an amendment to federal law to permit both state and federal tax exempt status for those accounts. Prudent homeowners should be able to immediately benefit from saving for a future catastrophe. We should also seek a change in federal banking law explicitly authorizing federally-chartered banks to offer homeowners seeking second mortgages to establish, at the same time, a post-disaster line of credit up to a certain amount, but earmarked for purposes of disaster recovery. Such a line of credit would probably cost a California borrower who is taking out a home improvement loan very little to maintain or to repay if originated before it was needed, but it would be of tremendous value once disaster struck. A tax incentive to banks, or credit under the Community Reinvestment Act, could be granted for originating these lines of credit. California’s Legislature could lead the way in seeking changes from Congress. State law could be amended to create a partial CEA premium tax credit for policyholders who opened these pre-disaster lines of credit within a few years of when the law was enacted. However, any law to increase the number of CEA policyholders must always be linked to actuarially-sound rates. There are no free lunches in this or any other line of insurance.

It’s been about a decade since the CEA was created, and it hasn’t yet been tested by a massive quake (thank goodness). In the wake of Hurricane Katrina, it is time for the Legislature to examine the CEA and to decide which improvements in the law can be made. Katrina demonstrated that the economic devastation of uncompensated property loss can be extraordinary. If California’s middle class is going to ride out a quake and keep its personal finances on an even keel, the first step is to seismically upgrade a home to prevent massive damage. The second step is for the Legislature to upgrade the CEA to make it a meaningful, long-term tool of public policy that can support the middle class after the Big One finally hits. Post-Katrina, the time for change in the law governing the CEA is upon us.

-Jackie Speier
Chair, State Senate Banking, Finance
and Insurance Committee

⁸ Florida and other states have disaster pools similar to the CEA that could also benefit from a federally-guaranteed loan repayment program or that could participate in a large and privately-led bond guarantee program.

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AUTOMOTIVE

BILLS SIGNED INTO LAW

SB 20 (ESCUZIA) Chapter 435, Statutes of 2005

Extends the January 1, 2007 sunset date on two low-cost auto insurance programs and the proof of financial responsibility (auto insurance) law in two counties, Los Angeles and San Francisco, until January 1, 2011, and also expands the low cost auto insurance program to the counties of Alameda, Fresno, Orange, Riverside, San Bernardino, and San Diego and makes expansion of all other counties subject to the discretion of the IC.

SB 597 (TORLAKSON) Chapter 109, Statutes of 2005

Denies a Good Driver Discount to those convicted of drunk driving or vehicular manslaughter during either the prior 10 years or from 1999 to the present, whichever is later, and ending on the date of the application for the issuance or renewal of the Good Driver Discount policy.

SB 1847 (Committee on Banking, Finance and Insurance) Chapter 405, Statutes of 2006

This omnibus bill permits auto insurers to give copies of police auto accident reports and other information found in police files to their insureds when the insureds could obtain the information directly from the police; repeals obsolete reporting requirements and consolidates remaining required reports into the annual report of the Department of Insurance; and permits real estate appraisers and architects to estimate the replacement cost of a structure under a fire insurance policy, as specified.

AB 1122 (WYLAND) Chapter 412, Statutes of 2006

Allows an insurance company to request a salvage certificate from the Department of Motor Vehicles when, within 30 days following a total loss settlement for a vehicle in its possession, the insurer has been unable to obtain proper ownership documents from the owner, as specified.

AB 1909 (VARGAS) Chapter 345, Statutes of 2006

Clarifies that a policy covering an insured who, in the course of his or her business, rents or leases motor vehicles for either commercial purposes or for at least a six-month term is considered excess to other insurance policies covering the same loss.

AB 2136 (VARGAS) Chapter 104, Statutes of 2006

This bill expands the definition of military service, as used in a specific context, to include officers, warrant officers, and enlisted persons.

AB 2407 (SALINAS) Chapter 129, Statutes of 2006

Reduce the minimum number of minutes for the mature driver discount program from the existing minimum of 400 course minutes for renewal of a certificate of completion to a new minimum of 240 for renewal, and permits an increase in the fee for this program for the first time in twenty years to a new maximum of \$30.

AB 2815 (BOGH) Chapter 196, Statutes of 2006

Expands the definitions of motor vehicle and watercraft for purposes of vehicle service contracts, and makes other changes to the vehicle service contract law.

BILLS VETOED

AB 778 (MULLIN)

Would have prohibited an insurer from refusing to offer insurance to an applicant who is an in-home supportive services worker, and would have prohibited insurers from excluding coverage for the operation of a motor vehicle incidental to the provision of in-home supportive services.

BILLS NOT SENT TO THE GOVERNOR

SB 98 (MURRAY) Held in Assembly Insurance Committee

Would have allowed a policyholder to receive a reduced auto insurance premium if the policyholder agreed to have his or her insured vehicle repaired at one of at least three auto body shops that are within 25 miles of the insured's home or the accident scene and that are recommended by the insurer.

AB 303 (CALDERON) Held in Senate Banking, Finance and Insurance Committee

Would have allowed a vehicle owner to authorize his/her insurer to act on his/her behalf to arrange repair of the owner's motor vehicle, as specified (a.k.a. "concierge service").

AB 687 (DYMALLY) Held in Senate Banking, Finance and Insurance Committee

Would have modified the composition of the advisory board of the California Automobile Assigned Risk Plan to account for changes in the size of insurers in the auto insurance market since the early 1990's.

AB 1120 (Benoit) Held in Assembly Appropriations Committee

As introduced, AB 1120 would have altered the required amount of annual automobile liability premiums an insurer must have to qualify to have a representative placed on the advisory panel of the California Assigned Risk Plan by the Insurance Commissioner. The bill was gutted and amended in the Senate into an urgency bill to require the California Department of Corrections

and Rehabilitation to establish an advisory committee of local law enforcement representatives to foster cooperation and coordination in the release and supervision of parolees, and was pulled from this committee and re-referred to Senate Public Safety Committee.

AB 1413 (DEVORE) Held in Senate Transportation and Housing Committee

This bill was double referred with the first referral to the Senate Transportation and Housing Committee. It would have eliminated the requirement that a motorist involved in a traffic accident resulting only in property damage notify the appropriate law enforcement agency of the accident.

AB 2840 (BENOIT) Held in Assembly Appropriations Committee

Would have prohibited the Insurance Commissioner from adopting any regulation that would change the weight given to any factor in determining automobile insurance rates and premiums unless the Department of Insurance conducted a study and determined that the changes would not result in arbitrary rate and premium changes.

DEPARTMENT OF INSURANCE

BILLS SIGNED INTO LAW

SB 706 (ORTIZ) Chapter 380, Statutes of 2005

Makes various changes in the regulatory authority of the Department of Insurance by expanding the authority to suspend an employee of an insurer or producer and to obtain recovery from private causes of action filed in the name of the Insurance Commissioner.

SB 1847 (Committee on Banking, Finance and Insurance) Chapter 405, Statutes of 2006

This omnibus bill permits auto insurers to give copies of police auto accident reports and other information found in police files to their insureds when the insureds could obtain the information directly from the police; repeals obsolete reporting requirements and consolidates remaining required reports into the annual report of the Department of Insurance; and permits real estate appraisers and architects to estimate the replacement cost of a structure under a fire insurance policy, as specified.

AB 1760 (Committee on Insurance) Chapter 415, Statutes of 2005

This is the Department of Insurance annual “clean-up” bill, making various technical changes to the Insurance Code relating to long-term care insurance, trust agreements and deposits, letters of credit, securities valuation, annual reporting requirements, and report confidentiality.

BILLS NOT SENT TO THE GOVERNOR

SB 179 (POOCHIGIAN) Held in Senate Labor and Industrial Relations Committee

This bill was double referred. It would have allowed the Fraud Assessment Commission to hire an Executive Director and staff and allowed the Insurance Commissioner to make grants to counties for three years rather than for one, under controls as specified, for purposes of funding workers' compensation insurance fraud investigations by district attorneys.

SB 717 (MALDONADO) Held in Senate Banking, Finance and Insurance Committee

Would have required the Department of Insurance to publish annually: 1) the total amount of funds paid to compensate persons for participating in hearings on insurance rates, and 2) specified information with respect to each person who initiates or intervenes in ratemaking proceedings. The bill would have amended Proposition 103 and would have required a 2/3 vote of the legislature.

SB 1089 (MALDONADO) Held in Senate Banking, Finance and Insurance Committee

Would have prohibited any person who serves as Insurance Commissioner, within five years of leaving that office, from serving as an officer, agent, or employee of an insurer or from contracting with an insurer, law firm, or other business to provide legal, consulting, or lobbying services on any matter before the Legislature or the department.

SB 1090 (MALDONADO) Held in Senate Banking, Finance and Insurance Committee

Would have required the Insurance Commissioner to notify the State Treasurer of the pending sale of any assets of an insurer valued in excess of \$10 million and would allow the Treasurer and Attorney General to intervene to challenge the liquidation of an insurer.

SB 1459 (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.

AB 210 (VARGAS) Held in Senate Public Safety Committee

As introduced, the bill made changes to the annual report submitted to the Legislature by the Insurance Commissioner. The bill was gutted and amended to deal with sex offenses and re-referred to the Committee on Public Safety.

AB 2365 (JONES) Held in Senate Rules Committee

As heard in the Senate Banking, Finance and Insurance Committee, this bill would have required the Department of Insurance to assist real estate agents and brokers in obtaining errors and

omissions insurance. The bill was gutted and amended subsequently to authorize the Department of Parks and Recreation to enter into an operating agreement with a non-profit for the development and operation of a children's museum in Old Sacramento.

AB 2840 (BENOIT) Held in Assembly Appropriations Committee

Would have prohibited the Insurance Commissioner from adopting any regulation that would change the weight given to any factor in determining automobile insurance rates and premiums unless the Department of Insurance conducted a study and determined that the changes would not result in arbitrary rate and premium changes.

HEALTH INSURANCE

BILLS SIGNED INTO LAW

SB 108 (LOWENTHAL) Chapter 45, Statutes of 2005

Deleted a provision in the Knox-Keene Health Care Service Plan Act of 1975 that permitted HMOs to be deemed in compliance with state law if in compliance with a federal law on the same subject. The federal law had been repealed. The laws in question require plans to involve enrollee in development of the plan's "public policy," defined in current law as "acts performed by a plan or its employees and staff to assure the comfort, dignity, and convenience of patients who rely on the plan's facilities to provide health care services to them, their families, and the public."

SB 367 (SPEIER) Chapter 723, Statutes of 2005

Enacts the Patient and Provider Protection Act and revises the way complaints from providers are handled by the Department of Insurance.

SB 375 (SPEIER) Chapter 206, Statutes of 2005

Generally conforms California's Medicare Supplement coverage provisions to the federal Medicare Prescription Drug, Improvement, and Modernization Act of 2003. Effective January 1, 2007, the bill also expands open enrollment into Medicare Supplement policies for certain individuals in Medicare Advantage plans when their Medicare Advantage plans reduce benefits or increase cost-sharing. The bill also prohibits insurers from requesting health information from an applicant who is guaranteed issuance of coverage. Due to the guarantee of issuance, the health information isn't needed and collecting it becomes an invasion of medical privacy.

SB 377 (ORTIZ) Chapter 643, Statutes of 2005

Requires DHS to inform Denti-Cal and other Medi-Cal providers that prevention and treatment of dental and periodontal disease is a covered benefit for all pregnant beneficiaries. As passed by the committee, the bill would have expanded the household income eligibility limit for the Healthy Families Program from 250 percent to 275 percent of the federal poverty level.

SB 437 (ESCUZIA) Chapter 328, Statutes of 2006

As enacted, establishes the Healthy Families Presumptive Eligibility Program for children who appear to meet the income requirements of Healthy Families and were receiving, but are no longer eligible for, Medi-Cal without a share of cost or are eligible for Medi-Cal with a share of cost and establishes the Medi-Cal to Healthy Families Accelerated Enrollment Program, subject to federal approval, and other related changes. As passed by this committee, but not included in the final bill, SB 437 would have created the California Healthy Kids Insurance Program, consisting of the Healthy Families Program and the portion of Medi-Cal that provides health care coverage to children under 19, created a panel of experts to advise DHS and MRMIB on implementation, permitted expansion of eligibility for health care coverage to those with household incomes up to 300% of the federal poverty level if funds are available, created a state-only component in Healthy Families, provided for a transitional implementation period with expanded utilization of local children's health initiatives, and made related changes.

SB 634 (SPEIER) Chapter 441, Statutes of 2005

Extends, beginning July 1, 2006, existing claims payment protections afforded to health care providers who deliver care to enrollees of *health care service plans* to those providers dealing with *health insurers*, and requires greater disclosure about possible uncompensated costs that could occur if an insured uses a provider who isn't contracted with a health care insurance company.

SB 798 (ORTIZ) Chapter 444, Statutes of 2005

As introduced, SB 798 would have extended the time when a health plan may not exclude coverage on the basis of a pre-existing condition from the existing six months to a new time limit of eight months following the individual's effective date of coverage. The bill was amended and withdrawn from this committee, and as enacted established a voluntary, county-option drug repository and distribution program to distribute surplus medications to persons in need of financial assistance in order to ensure access to needed prescription medicines.

SB 1245 (FIGUEROA) Chapter 482, Statutes of 2006

Expands the coverage for an annual cervical cancer screening test to include the human papillomavirus screening test that is approved by the federal Food and Drug Administration upon referral by the patient's health care provider, in addition to the Pap test and the option of an FDA-approved cervical cancer screening test.

SB 1704 (KUEHL) Chapter 684, Statutes of 2006

Extends for four years, to January 1, 2011, the sunset date on the health insurance benefit mandate review program at the University of California, and expands the scope of the program to include review of legislation that repeals mandated insurance benefits.

AB 228 (KORETZ) Chapter 419, Statutes of 2005

Prohibits a health plan or health insurer from denying coverage that is otherwise available under a contract or policy for solid organ or other tissue transplantation because the insured is infected with the human immunodeficiency virus (HIV).

AB 356 (CHAN) Chapter 526, Statutes of 2005

Requires health plans and insurers selling products in the individual health insurance market to inform applicants of the reasons for their denial and of the availability of the state's high risk insurance pool, and requires health plans and insurers to have written policies, procedures and underwriting guidelines for making decisions to provide or deny coverage to individuals and to report those guidelines to the DMHC and Department of Insurance.

AB 493 (FROMMER) Chapter 218, Statutes of 2005

Permits Multiple Employer Welfare Arrangements to diversify their investment portfolios by investing, as specified, in bond mutual funds and corporate bonds.

AB 1359 (CHAN) Chapter 230, Statutes of 2005

Requires a sponsor of a Medicare prescription drug plan, to be licensed as a health care service plan by the Department of Managed Health Care or as a life and disability insurer by the Department of Insurance.

AB 1533 (BASS) Chapter 542, Statutes of 2005

Allows individuals who lose health insurance coverage under the Healthy Families Program due to age or family income limits to enroll in an employer-sponsored health plan without being considered a "late enrollee".

AB 1586 (KORETZ) Chapter 421, Statutes of 2005

The purpose of this act is to prohibit plans and insurers from denying an individual a plan contract or policy, or coverage for a benefit included in the contract or policy, based on the person's sex, as defined in the penal code.

AB 1744 (Committee on Health) Chapter 128, Statutes of 2006

Renumbers a Health and Safety Code section and deletes a duplicate section in the Welfare and Institutions Code.

AB 1851 (COTO) Chapter 331, Statutes of 2006

Deletes the sunset on the law that permits a participating health, dental, or vision plan to provide application assistance directly to an applicant of the Healthy Families program.

AB 2012 (EMMERSON) Chapter 756, Statutes of 2006

Requires health plans and health insurers that currently must offer coverage of orthotic and prosthetic devices and services to offer that coverage with annual and lifetime benefit maximums and maximum out-of-pocket costs equal to those of other benefits, and requires that those orthotic and prosthetic benefits be covered when prescribed by a physician and surgeon or doctor of podiatric medicine acting within the scope of his or her license.

AB 2667 (BACA) Chapter 758, Statutes of 2006

Requires the Department of Managed Health Care and the Department of Insurance to consider whether a health plan or health insurer applying for initial licensure has any history of providing or arranging to provide health care services in California or in other states and, if so, whether the applicant has complied with applicable state and federal requirements and laws, and would also permit the CalPERS board and the Medi-Cal program to consider similar questions when contracting with entities for the provision of health care services.

AB 2884 (BACA) Chapter 622, Statutes of 2006

Expands the health care coverage protections for members of the United States Military Reserve and National Guard who are called to active duty to include all health care providers rather than just those regulated by the Department of Insurance, and provides the Director of the Department of Health Services and the Insurance Commissioner authority to enforce those provisions.

AB 2889 (FROMMER) Chapter 826, Statutes of 2006

Requires health plans and health insurers providing coverage in the individual health insurance market to allow an enrollee to transfer to another individual health plan or policy of equal or lesser benefits, as determined by the plan or insurer, without undergoing medical underwriting, as specified.

BILLS VETOED

SB 23 (MIGDEN)

Would have required the Managed Risk Medical Insurance Board (MRMIB) and the Department of Health Services (DHS) to collaborate with the Employment Development Department (EDD) to promote participation in the Healthy Families and Medi-Cal programs. Would have required MRMIB to develop a process by which family contributions to the Healthy Families Program could be deducted from an applicant's pay and be transmitted by the employer to MRMIB.

SB 573 (ROMERO)

Would have prohibited health insurers from failing to provide coverage for injuries sustained while the insured was intoxicated or under the influence of any controlled substance.

SB 576 (ORTIZ)

Would have required health plans and health insurers to provide coverage for two courses of tobacco cessation treatments per year, including counseling and prescription and over-the-counter medications, and would have prohibited plans and insurers from applying deductibles, but would have allowed specified co-payments for those benefits.

SB 840 (KUEHL)

Would have created the California Health Insurance System, a single payer health care system administered by the California Health Insurance Agency, to provide health insurance coverage to all California residents.

SB 1223 (SCOTT)

Would have required health care service plans and health insurers to offer or provide coverage for hearing aids to all enrollees and subscribers less than 18 years of age.

AB 89 (JEROME HORTON)

Would have required DHS and MRMIB to submit a joint report to the Legislature that identifies employers who employ 25 or more persons and whose employees are presently enrolled in a state funded health plan.

AB 264 (CHAN)

Would have required health plans that cover outpatient prescription drugs to cover certain forms of outpatient pediatric asthma self-management training and education.

AB 772 (CHAN)

Would have created the Healthy Kids Insurance Program, consisting of the Healthy Families Program and the portion of Medi-Cal that provides health care coverage to children under 19, would have permitted expansion of eligibility for health care coverage to those with household incomes up to 300% of the federal poverty level if funds are available, would have provided for a transitional implementation period with expanded utilization of local children's health initiatives, and would have made related changes.

AB 1199 (FROMMER)

Would have created the California Healthy Kids Fund in the state treasury for the purpose of receiving contributions to expand children's health insurance as provided for in AB 772, above.

AB 1698 (NUNEZ)

Would have prohibited health plan contracts or insurance policies that cover dependent children from establishing a limiting age for coverage of less than 26 years of age.

AB 1840 (JEROME HORTON)

Would have required the Department of Health Services and the Managed Risk Medical Insurance Board to collaborate in preparing a report that identifies all employers who employ 25 or more persons who are beneficiaries, or who support beneficiaries, enrolled in the Medi-Cal, Healthy Families, and Access for Infants and Mothers programs.

AB 2170 (CHAN)

Would have required that the Office of the Patient Advocate include specified information about Medicare Part D plans in its annual quality of care report card.

BILLS NOT SENT TO THE GOVERNOR

SB 38 (ALQUIST) Held at Assembly desk

Would have expanded the household income eligibility limit for the Healthy Families Program from 250 percent to 300 percent of the federal poverty level.

SB 189 (CHESBRO) Held in Senate Banking, Finance and Insurance Committee

As introduced, the bill would have required a health care service plan and health insurer to offer coverage for the medically necessary treatment of substance-related disorders, excluding caffeine-related disorders, on the same basis as coverage is provided for any other medical condition.

SB 364 (PERATA) Held on Assembly Floor Inactive File

Would have authorized a physician who had a contract with a health plan but not with a contracting entity (e.g. a medical group or independent practice association) of the plan, to submit a claim to the plan, and required the plan to pay the claim pursuant to the terms of the contract between the plan and the physician.

SB 415 (ALQUIST) Held in Senate Judiciary Committee

As introduced, the bill would have required health plans to include cholinesterase inhibitors and other medication for the treatment of Alzheimer's disease on their prescription drug formularies, and it would have required health insurers to offer coverage for such medication. The bill was subsequently amended to deal with advanced health care directives, withdrawn from this committee and referred to Senate Judiciary Committee.

SB 417 (ORTIZ) Held in Assembly Health Committee

Would have prohibited hospital-based health care providers from routinely billing patients who have health insurance in excess of applicable co-payments, deductibles, or coinsurance unless the provider had first billed the patient's health plan and been denied payment. Would have required providers to include in billing statements sent to patients a notice that the charges billed may be covered by the patient's health plan and that the patients may contact the Department of Managed Health Care (DMHC) if they believe they have been billed incorrectly, and required the DMHC to review individual provider complaints about unfair payment practices by health plans or their contractors and to take enforcement actions.

SB 425 (ORTIZ) Held in Senate Banking, Finance and Insurance Committee

As introduced, the bill would have required a health care service plan and a health insurer to obtain approval of any rate increase from the DMHC and the Department of Insurance, respectively, and would have allowed those departments to assess plans and health insurers a fee to implement the rate approval process.

SB 572 (PERATA) Held in Senate Banking, Finance and Insurance Committee

Would have expanded the number of mental disorders the diagnosis and treatment of which health plans and health insurers are required to cover to include all of the mental disorders listed in the Diagnostic and Statistical Manual IV, excluding substance abuse and other specified disorders.

SB 749 (SPEIER) Held in Senate Banking, Finance and Insurance Committee

Would have required a health care service plan or a disability insurer to cover the diagnosis of pervasive developmental disorders or autism when that diagnosis is developed according to current best practices standards developed by the Department of Developmental Services.

SB 913 (SIMITIAN) Held in Senate Appropriations Committee

Would have prohibited health care service plans and health insurers from requiring a step therapy pharmacy management protocol that makes a distinction between biologic and non-biologic therapies, and would have required DHS to establish a pilot program in which any biologic drug prescribed for the treatment of rheumatic disease would be included on the Medi-Cal list of contract drugs under specific conditions.

SB 1394 (FLOREZ) Held in Assembly Health Committee

Would have required the Department of Managed Health Care to evaluate Kern Health Systems to determine the adequacy of rates, access to care by plan enrollees, impacts to non-contracting providers, and opportunities to improve the network and quality of care.

SB 1508 (BOWEN) Held in Assembly Health Committee

Would have required health care service plan contracts and health insurance policies that cover colonoscopies to provide coverage for medically necessary anesthesia services for the covered colonoscopy.

SB 1591 (KUEHL) Held in Assembly Health Committee

As introduced, the bill would have required health plans and health insurers to expend at least 85 percent of premiums on healthcare services and would have prohibited any for-profit health plan/insurer from paying shareholders until it had spent the required amount on healthcare services. The bill in that form did not pass this committee. Upon reconsideration, the bill was amended to prohibit health insurers from expending an excessive amount of subscriber premiums on administrative costs. In the Assembly, the bill was gutted and amended to eliminate the exemption currently applicable to group disability insurance policies from the real economic value requirement, effectively prohibiting the Insurance Commissioner from approving any group disability policy with benefits the Insurance Commissioner determines are of no real economic value to the insured.

SB 1622 (ESCIUTIA) Held in Assembly Appropriations Committee

Would have required MRMIB to develop a notice, to be used by employers in specified industries, explaining to employees the availability of health coverage through the Healthy Families and Medi-Cal programs.

SB 1804 (FLOREZ) Held in Assembly Health Committee

Would have required greater public disclosure from health plans and health insurers about their provider networks, down to the county level, in order to help ensure that consumers, regulators, and other persons are better informed about the actual capacity of provider networks.

SB 1823 (DUNN) Held in Senate Banking, Finance and Insurance Committee

With respect to plans regulated by the Department of Managed Health Care, would have increased penalties against health plans and medical groups for underpayments to medical care providers, required public disclosure about complaints made by providers against plans and medical groups, required public disclosure of payment databases and software, established a “fast track” process at the DMHC for disputed billings by medical providers, and made related changes.

AB 909 (CHAVEZ) Held in Senate Banking, Finance and Insurance Committee

Would have allowed health plan enrollees or applicants, and health insurance subscribers or applicants to “opt-in” to receive specified types of information via e-mail rather than through regular mail.

AB 977 (NAVA) Held in Senate Banking, Finance and Insurance Committee

Would have required health plans and health insurers to seek regulatory approval before selling a plan or policy that includes any deductible, co-payment, other out-of-pocket cost, or limitation on benefits or coverage, would have required the Department of Managed Health Care and the Department of Insurance to develop regulations for the creation of standard benefit designs in each of the individual, small group, and large group markets, and would have required the departments to seek public comment before approving or denying health insurance products that did not conform to the standard benefit designs.

AB 1971 (CHAN) Held in Assembly Health Committee

As first heard in this committee, the bill would have required health plans and health insurers to choose between: a) Guaranteeing the issuance of individual health insurance regardless of the applicant's health status; or, b) Paying a fee to the state to support the Major Risk Medical Insurance Program (MRMIP). The bill was subsequently amended on the Senate Floor to require health plans/insurers to choose between: a) Participating in MRMIP by enrolling subscribers equal to their market share; or b) Paying a fee to support the program. Note: Although AB 1971 was held in the Assembly Health Committee, a bill on the subject of MRMIP, SB 1702 (Speier & Cox), passed both houses and was signed by the Governor (Chapter 683, Statutes of 2006). SB 1702 appropriated \$4 million in Proposition 99 tobacco tax funds to MRMIP to eliminate the enrollment backlog and extended the sunset on MRMIP's accompanying pilot program from September 2007 until January 2008.

AB 2364 (DE LA TORRE) Held on Senate Floor

The bill would have required the Office of HIPAA Implementation to ensure that its advisory committee placed an emphasis on privacy issues. Committee amendments to the bill sunsetted the advisory committee. The bill was subsequently gutted and amended again to allow certain forms of marketing in pharmacies, and was referred to the Senate Judiciary Committee.

AB 2377 (CHAN) Held in Senate Appropriations Committee

Would have authorized a county health initiative to apply for additional funding as appropriated in the budget, to provide health insurance coverage to all children in families with incomes up to 300 percent of the federal poverty level.

HOMEOWNERS/PROPERTY

BILLS SIGNED INTO LAW

SB 2 (SPEIER) Chapter 447, Statutes of 2005

Makes various changes to the regulation of homeowners' insurance, including: (1) Created a right to 24 months of additional living expenses under a homeowners policy if a declared disaster was the cause of the loss of the home; 2) Strengthened the education of insurance agents in how to properly estimate the replacement cost of a home; (3) Required insurers to provide a list of covered expenses when an insured makes a claim for alternate living expenses so that consumers can know the types of things that they are entitled to claim for reimbursement; and, (4) Made an existing earthquake and catastrophe mediation program permanent.

SB 518 (KEHOE) Chapter 448, Statutes of 2005

Requires insurers to provide homeowners' insurance policyholders with a copy of their insurance policy within 30 days from the policyholder's request, provides that an insured who does not experience a covered loss is entitled to one free copy if his or her insurance policy or certificate annually, and (like SB 2, above) requires insurers to extend the additional living expense timeframe to 24 months after a declared state of emergency, and makes various changes to the statutes governing insurance adjusters.

SB 1847 (Committee on Banking, Finance and Insurance) Chapter 405, Statutes of 2006

This omnibus bill permits auto insurers to give copies of police auto accident reports and other information found in police files to their insureds when the insureds could obtain the information directly from the police, repeals obsolete reporting requirements and consolidates remaining reports into the annual report of the Department of Insurance, and permits real estate appraisers and architects to estimate the replacement cost of a structure under a fire insurance policy, as specified.

AB 873 (BOGH) Chapter 397, Statutes of 2005

Requires that insurers provide policyholders, after a covered loss, with a free copy of a fire policy within 30 days of a request, and otherwise requires that insurers provide a free copy of that policy, upon request, once per year.

AB 1640 (SALDANA) Chapter 433, Statutes of 2005

Requires homeowner insurance companies to disclose to policyholders the fact that the insurance company will report claims history or loss experience to insurance industry databases, and also requires the insurance company to give a phone number for the database so that the policyholder can contact the database company.

AB 1946 (NAVA) Chapter 137, Statutes of 2006

Makes clarifying changes to the “Petris disclosure law” and to the mandatory statements within the declarations page of a homeowners policy so that homeowners can better understand what is covered under a homeowners policy.

BILLS NOT SENT TO THE GOVERNOR

SB 251 (MORROW) Held in Senate Banking, Finance and Insurance Committee

As introduced, the bill would have required an insurer under a homeowners’ insurance policy, in the event of a total loss of the primary structure insured, to offer the insured the option of receiving an amount equal to 85 percent of the policy limit for loss or damage to personal property, in exchange for the insured’s waiver of any right to recover an amount in excess of that sum for the loss, and would prohibit the insurer in that case from requiring the insured to prepare a list of the personal property that had been lost or destroyed. The bill was subsequently amended to delete the 85 percent figure, and was not moved forward for consideration with any other proposed figure.

LIFE AND DISABILITY

BILLS SIGNED INTO LAW

SB 487 (COX) Chapter 174, Statutes of 2005

Permits the Insurance Commissioner to approve issuance of group life insurance policies to certain types of employer groups not specifically identified by statute, under specified conditions.

AB 837 (BENOIT) Chapter 67, Statutes of 2005

Allows a life and disability insurer to offer policyholders an endorsement that waives premium payments in the event of the involuntary unemployment of a policyholder, as specified.

BILLS VETOED

AB 608 (CALDERON)

Would have: 1) Exempted a seller of a burial or pre-need policy with a face value of \$15,000 or less from the requirement that notice be provided to a senior 24 hours prior to any sales meeting in the senior’s home when the senior has requested the meeting; 2) Required the senior to sign a written notice explaining his or her rights prior to the meeting; 3) Required that the signed notice be submitted with any application if the senior purchases a policy; 4) 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.

BILLS NOT SENT TO THE GOVERNOR

SB 192 (SCOTT) Held in Assembly Insurance Committee

Would have created suitability standards for the sale of annuities, imposed new duties on insurers and agent-brokers relative to the sale of these products to seniors (65 or older, unless otherwise indicated), and made other related changes.

AB 243 (VARGAS) Held in Senate Banking, Finance and Insurance Committee

Would have created a California law to regulate the market for “life settlements”- the sale of in-force life insurance to a third party by the owner. The National Association of Insurance Commissioners is also developing a model act on this subject that could be used as a starting point for legislation next year.

LICENSING

BILLS SIGNED INTO LAW

SB 408 (MARGETT) Chapter 257, Statutes of 2005

Extends the sunset on existing licensing fees and assessments for escrow agents by the Department of Corporations from January 1, 2006 to January 1, 2010.

AB 404 (LENO) Chapter 389, Statutes of 2005

Allows bail agents licensed by the Department of Insurance to satisfy their annual continuing education requirement through Internet or correspondence courses, requires a written test with a minimum passing grade, makes changes to the DOI approval process for bail licensure education providers, and allows the DOI to impose a fee for that approval process, as specified.

AB 729 (KORETZ) Chapter 312, Statutes of 2005

Changes security requirements for a broker-agent licensee operating as a limited liability company, creates specific penalties for helping others cheat on examinations for an insurance broker-agent license, creates new licensee obligations to reply to inquiries from the Insurance Commissioner related to licensing or consumer complaints, and makes related changes.

AB 2387 (VARGAS) Chapter 590, Statutes of 2006

Deletes the requirement that insurance agent pre-licensing education be conducted in a classroom, and allows for alternative methods such as Internet-based education. Further

provides that pre-licensing certificates of completion expire three years from the completion of the course, whether or not a license is issued.

BILLS NOT SENT TO THE GOVERNOR

SB 728 (ESCUZIA) Died On Senate 3rd Reading File

Would have established application requirements and procedures for obtaining and renewing a certificate of registration as a title solicitor, prohibited a person from marketing, offering, soliciting, negotiating, or selling title insurance in California unless that person held a valid certificate of registration as a title solicitor, and authorized the Insurance Commissioner to adopt rules and regulations as necessary to implement the title solicitor registration program.

SB 938 (DUNN) Held in Senate Banking, Finance and Insurance Committee

Would have created new statutory obligations for commercial lines licensees with respect to their customers.

LONG-TERM CARE

BILLS SIGNED INTO LAW

SB 1810 (DUNN) Chapter 312, Statutes of 2006

Allows the Insurance Commissioner to require an insurer to provide a “contingent benefit upon lapse” of a long-term care insurance policy as a condition of approval of a rate increase for a block of business for which a non-forfeiture benefit is not available, specifies the benefit, and eliminates the sunset on the requirement that any long-term care premium rate increase exceeding 15 percent be pooled, as specified.

MISCELLANEOUS

BILLS SIGNED INTO LAW

SB 150 (ESCUZIA) Chapter 436, Statutes of 2005

Requires insurers to provide consumers with the specific reasons for a declination, cancellation, or non-renewal of specified insurance policies.

SB 271 (SCOTT) Chapter 253, Statutes of 2005

Allows a grants and annuities society that offers a charitable gift annuity to invest assets in mutual funds and in the stock of mutual fund companies (in addition to making investments in the stocks and bonds of individual companies), deleted the requirement that a grants and annuities company show the Insurance Commissioner the reasonable value of benefits offered in exchange for the investment and substituted a required statement to be signed by the investor demonstrating knowledge of the unprotected nature of the investment, and also required the society to report new information to the Insurance Commissioner about each contract, as specified by the commissioner.

SB 381 (DENHAM) Chapter 173, Statutes of 2005

Authorizes a grants and annuities society that is also licensed as a life and disability insurer to offer a variable annuity, and eliminates certain related regulatory and reporting requirements.

SB 603 (ORTIZ) Chapter 481, Statutes of 2006

As passed by this committee, the bill would have prohibited an insurer from using credit ratings, credit reports, credit scoring models, or credit information to underwrite, classify, or rate automobile or homeowners' insurance policies or to non-renew, cancel, or refuse to issue these policies and would have prescribed the penalties for violations of these rules. The bill was gutted and amended, and as enacted it requires the Commission on the Status of Women to convene an advisory committee to report to the Legislature and other specified entities on the implementation of the Reproductive Rights Law Enforcement Act and the effectiveness of a plan developed by the Attorney General.

SB 1105 (SPEIER) Chapter 446, Statutes of 2005

As first passed by the committee, this bill dealt with workers compensation fraud by chiropractors. The substance of that bill was amended into AB 1760. As enacted, SB 1105 generally prohibits a life insurance company from considering an applicant or policyholder's past or future lawful travel destination in underwriting the application or policy.

AB 544 (VARGAS) Chapter 84, Statutes of 2005

Permits an insurance solicitor to be employed by more than one fire and casualty broker agent, provided that the employing broker-agents have entered into an agreement to determine on whose behalf the solicitor is working when dealing with new customers. The purpose of the bill is to identify the liability of a particular agent for the actions of the solicitor.

AB 817 (MATTHEWS) Chapter 395, Statutes of 2005

Authorizes the California Insurance Guarantee Association to request a specified report from the Self-Insurers Security Fund identifying the aggregate amount of liability under all specific excess workers' compensation policies as reported by the private self-insured employers, as specified,

and expands the definition of “covered claims” to include the obligation of an insolvent insurer to indemnify a permissibly self-insured employer for its liability to pay workers’ compensation benefits, as specified.

AB 925 (RIDLEY-THOMAS) Chapter 456, Statutes of 2006

Requires California-admitted insurers to submit information about their community investment activities to the Insurance Commissioner on a biennial basis until January 1, 2011, requires posting that information to the Department of Insurance website, and makes the submission of community investment data by insurance companies voluntary after January 1, 2010.

AB 1043 (HARMAN) Chapter 321, Statutes of 2005

Clarifies insurer and agent-broker duties when refunding unearned premium to an insured.

AB 1123 (WYLAND) Chapter 327, Statutes of 2005

Provides that there is no liability on the part of, and no cause of action against, any insurer that issues professional liability policies to health care providers for any statement made, unless shown to have been made in bad faith, in any of the following: 1) A written notice of renewal, or any oral or written communication specifying the reasons for non-renewal of the policy; 2) Any communication providing information pertaining to non-renewal; or 3) Evidence submitted at any court proceeding or informal inquiry in which non-renewal is an issue, and generally mirrors similar provisions applicable to auto insurers. The provisions of this bill sunset on January 1, 2011.

AB 1634 (MCCARTHY) Chapter 723, Statutes of 2006

As introduced, would have specified the means by which a person could demonstrate compliance with the provision of law governing notices given to persons by mail. The bill was gutted and amended in the Senate, and as finally approved appropriated \$38,818,310 from the General Fund to reimburse counties for costs relating to the statewide special election held on November 8, 2005.

AB 1761 (Committee on Insurance) Chapter 95, Statutes of 2005

Specifies the obligations of policyholders and the Conservation and Liquidation Office (CLO) to reimburse the California Insurance Guaranty Association (CIGA) for claims paid by CIGA under deductibles in an insurance policy, sets forth related obligations of CIGA, the CLO and policyholders, and states that this bill is declaratory of existing law.

AB 2038 (TRAN) Chapter 376, Statutes of 2006

Defines certain pleas of defendants to be crimes for purposes of making a person ineligible to be a member of the Escrow Agents Fidelity Corporation (Fidelity) and explicitly grants Fidelity other defenses of a statutory surety as well as those of an indemnitor.

AB 2400 (BENOIT) Chapter 321, Statutes of 2006

Permits reinsurers to offset unpaid premiums from an insolvent ceding carrier against the obligations of the reinsurer, makes confidential the documents reviewed by the Department of Insurance when conducting an examination of reinsurance intermediaries, and makes related changes.

AB 3072 (Committee on Insurance) Chapter 112, Statutes of 2006

Permits the California Insurance Guarantee Association to issue bonds for an additional two years beyond the current sunset date, extending the authority to January 1, 2009, but does not change the total amount of bonds that CIGA can issue.

BILLS VETOED

AB 1374 (LIU)

As heard by the Committee, would have made permanent the Seismic Safety Commission and the use of Seismic Safety Account funds for the Commission by repealing a July 1, 2007 sunset date. As subsequently amended, the sunset was extended to 2014 rather than making the Commission permanent.

AB 1883 (DE LA TORRE)

Would have established a workers' compensation enforcement-of-coverage program designed to detect unlawfully uninsured employers and continuously appropriated resources from the Workers' Compensation Administration Revolving Fund to fund the program.

BILLS NOT SENT TO THE GOVERNOR

SB 205 (COX) Held in Senate Banking, Finance and Insurance Committee

This bill was not set for hearing by the author. Current law permits an insurer to non-renew insurance if the insurer hasn't received premium from an agent-broker within 10 days of a written demand by the insurer. SB 205 would have increased the time period to 20 days.

SB 530 (KEHOE) Held in Senate Banking, Finance and Insurance Committee

Would have permitted (but not required) an insurer to exclude from an underwriting decision, generally speaking, "no-cost incidents" of claims under an errors and omissions policy issued to a real estate broker or agent, as specified.

SB 1340 (MARGETT) Held in Assembly Banking and Finance Committee

Would have made various changes to the law providing for the licensing and regulation of escrow agents by the Commissioner of Corporations.

SB 1685 (MACHADO) Held in Senate Banking, Finance and Insurance Committee

A spot bill that would have prohibited a person from conditioning the financing, loan or the renewal or extension of a loan on negotiating insurance through a particular insurance solicitor.

AB 242 (VARGAS) Held in Senate Public Safety Committee

As introduced and passed by the Assembly, the bill would have permitted underwritten title companies to be formed as limited liability companies. The bill was gutted and amended to increase the penalties for certain sex offenses against a minor, withdrawn from the committee and re-referred to the Senate Public Safety Committee.

BANKING AND FINANCE

BILLS SIGNED INTO LAW

SB 513 (SOTO) Chapter 261, Statutes of 2005

Defers principal and interest for six months without penalty on the financial obligations of a member of the California National Guard after the death of the member, to the extent permitted by the laws of the United States and the California Constitution.

SB 1207 (ALARCON), Chapter 871, Statutes of 2006

Allows a publicly traded California corporation to amend its bylaws to allow for the use of majority, rather than plurality, voting to elect a member of its board of directors in an uncontested election, as specified, and requires the term of a seated member of the board who fails to receive a majority vote in an uncontested election to end within 90 days of the election.

SB 1699 (BOWEN) Chapter 682, Statutes of 2006

Provides that, beginning January 1, 2009, no entity that accepts credit or debit cards for the transaction of business shall print more than the last five digits of the credit or debit card account number on any receipt that is retained by that entity and is printed at the time of purchase, exchange, refund or return.

AB 241 (HARMAN) Chapter 286, Statutes of 2005

Adds to the types of business entities that may merge without the Franchise Tax Board first having to file a certificate of satisfaction of tax liability with the California Secretary of State.

AB 279 (CALDERON) Chapter 16, Statutes of 2005

Corrects a chapering out problem related to the 2004 Budget Act by allowing a limited liability company (LLC) to operate as a health care service plan, subject to certain restrictions, and allows the state to invest Pooled Money Investment Account (PMIA) surplus monies in commercial paper issued by LLCs under certain conditions.

AB 306 (BACA) Chapter 291, Statutes of 2005

Enacts various financial protections for service members called to active duty after enactment of the bill as a result of the wars in Afghanistan and Iraq.

AB 434 (PARRA) Chapter 94, Statutes of 2005

Allows state chartered credit unions to offer tax deductible Health Savings Accounts and clarifies existing law that allows credit unions to establish Education Savings Accounts.

AB 502 (COGDILL) Chapter 425, Statutes of 2005

Requires applicants for new licenses under the California Finance Lenders Law to submit a full set of fingerprints and related information to the Commissioner of Corporations for a criminal history record check and requires the commissioner to submit the fingerprint information to the Department of Justice for review, as specified.

AB 618 (COGDILL) Chapter 705, Statutes of 2006

Allows law enforcement and district attorneys to be able to obtain from a bank, credit union or savings bank any surveillance video tapes or photographs from the date of a criminal activity or incident in the possession of the financial institution without a court order.

AB 865 (RUSKIN) Chapter 316, Statutes of 2005

Exempts a program-related investment made by a tax-exempt private foundation and certain loans, guarantees, or investments made by a tax-exempt public charity from the California Finance Lenders Law, as long as those tax-exempt organizations are not making consumer loans, as specified.

AB 901 (RIDLEY-THOMAS) Chapter 531, Statutes of 2005

Amends California's Covered Loan Law to increase the loan amount used to determine whether a loan qualifies as "covered" to the current conforming loan limit for a single-family first mortgage loan established by Fannie Mae, and requires that counties that have established a Real Estate Fraud Protection Trust Fund report their activities in an annual report submitted to the Legislative Analyst.

AB 1304 (CALDERON) Chapter 41, Statutes of 2005

Requires a bank that does not return canceled items to a customer to provide, upon customer request, either a substitute check or a legible copy of a substitute check to the customer within a reasonable time.

AB 1419 (PARRA) Chapter 196, Statutes of 2005

Streamlines the licensing requirements for an existing California Finance Lenders Law licensee that is seeking to open a new location.

AB 1489 (CALDERON) Chapter 49, Statutes of 2005

Clarifies the types of equipment that satisfies the requirements for equipping tactually discernable point of sale systems for the visually impaired.

AB 1527 (LIU) Chapter 340, Statutes of 2005

Prohibits a supervised financial institution from issuing a consumer deposit account number to a customer if the account number was previously held by another customer, until at least three years have passed since that account was closed.

AB 1661 (J. HORTON) Chapter 412, Statutes of 2005

Updates California's financial guaranty laws by redefining terms, expanding and adjusting several classifications, authorizing certain accounting adjustments, authorizing an increased investment by the insurer in a single entity from one to four percent, and by clarifying calculations of reserves, unearned premium and other terms.

AB 1729 (HOUSTON) Chapter 153, Statutes of 2005

Requires a real estate broker to record multi-lender promissory notes secured by real property within 10 days and makes other technical changes in the Real Estate law.

AB 1959 (TRAN) Chapter 214, Statutes of 2006

Makes conforming and technical changes to the Corporations Code, including changing the reference in specified corporate annual reports from "a statement of changes in financial position" to a "statement of cashflows".

AB 2011 (VARGAS) Chapter 459, Statutes of 2006

Allows, until January 1, 2012, a local agency to invest up to 30 percent of its surplus funds in certificates of deposit at a bank, credit union or savings and loan that uses a private sector deposit placement service, subject to specified conditions.

AB 2043 (Assembly Banking and Finance Committee) Chapter 521, Statutes of 2006

Allows specified business entities that are the victims of identity theft to take advantage of the debt relief protection currently available only to natural persons who are victimized by identity theft.

AB 2416 (TORRICO) Chapter 356, Statutes of 2006

Authorizes a licensed California Finance Lender to collect a fee for the use of an automated valuation model in lieu of an appraisal, as specified, and requires licensees to disclose to consumers that automated valuation models are not appraisals.

AB 2602 (LIEU) Chapter 107, Statutes of 2006

Authorizes a commercial mortgage banker licensed as a real estate broker under the Real Estate Law to retain or arrange to allocate the interest earned on funds placed in an interest-bearing account, as specified.

AB 2711 (PARRA) Chapter 361, Statutes of 2006

Replaces the requirement that issuers of money orders and travelers checks have their products pre-approved by the Commissioner of Financial Institutions prior to sale with a requirement that all money orders and travelers checks sold in California meet specified requirements.

AB 2890 (RIDLEY-THOMAS) Chapter 201, Statutes of 2006

Authorizes the Commissioner of Corporations to suspend or bar a person from any position of employment with a licensed finance lender or residential mortgage lender if the person misleads the public regarding his or her qualifications or experience, as specified.

BILLS VETOED

SB 360 (FLOREZ)

Would have prohibited “sale-leaseback” transactions involving consumers. In such a transaction, a consumer “sells” personal property to a company which then “loans” a sum to the consumer, subject to repurchase by the consumer and to other provisions. The bill would have prohibited these transactions and imposed civil and criminal penalties for a violation of its provisions.

SB 781 (FLOREZ)

Would have provided that if funds deposited by check in an account at a depository institution are required to be made available at an earlier time under federal rather than state law, then the earlier time set by federal law would prevail.

AB 535 (CALDERON)

Would have established a licensing and regulatory scheme for nonprofit credit counseling agencies overseen by the Department of Corporations.

BILLS NOT SENT TO THE GOVERNOR

SB 120 (FLOREZ) Held in Senate Committee on Environmental Quality

As introduced, the bill would have exempted a licensee under the California Finance Lenders Law from certain regulations for loans if the bona fide principal amount was less than \$10,000, and prohibited a licensee from taking title to a vehicle as security for a consumer loan unless certain conditions were satisfied. Before being heard in this committee, the bill was amended to deal with sewage sludge and was held in the Senate Committee on Environmental Quality.

SB 345 (BATTIN) Held in Senate Banking, Finance and Insurance Committee

Would have clarified that under the Corporations Code, the “Commissioner” is the California Corporations Commissioner, as opposed to the Commissioner of Corporations.

SB 550 (SPEIER) Held in Assembly Rules Committee

As introduced, the bill would have required a bank to maintain certain procedures if the bank issues customer account numbers that were previously held by other customers. The bill was subsequently gutted and amended to regulate businesses that collect and sell consumers’ personal information (“data brokers”), and was withdrawn from this committee and re-referred to Senate Judiciary Committee. In the Assembly, the bill failed passage in the Assembly Banking and Finance Committee. The bill was subsequently gutted and amended again to regulate Internet Service Providers’ disclosure of personally identifiable information.

SB 778 (FLOREZ) Failed passage, Assembly Banking and Finance Committee

Would have provided that a depository institution that issues a check on behalf of a business client could not assess any charge or fee on an individual seeking to cash a paycheck issued to that individual by the business client.

SB 790 (SPEIER) Held in Senate Banking, Finance and Insurance Committee

Would have amended California’s Covered Loan Law (Financial Code Sections 4970 et seq.) to increase the loan amount used to determine whether a loan qualifies as “covered,” included prepayment penalties and yield spread premiums (YSPs) in the point and fee calculation used to determine whether a loan qualifies as “covered,” extended the Covered Loan Law to open lines of credit, required borrowers being offered a covered loan to be provided with loan counseling, and reduced the time period during which a prepayment penalty could be imposed on a covered loan.

SB 1019 (CAMPBELL) Held in Senate Banking, Finance and Insurance Committee

Would have allowed state-chartered commercial banks and trust companies to conduct trust business outside the state and allowed foreign (other state) banks to engage in trust business in California, as specified.

SB 1188 (FLOREZ) Failed passage, Assembly Banking and Finance Committee

This bill is substantially similar to SB 778, above, and in addition would have defined “without discount” for purposes of Labor Code Section 212 as without a fee charged by a bank or place of business.

SB 1199 (FLOREZ) Held in Senate Banking, Finance and Insurance Committee

As introduced, would have prohibited a depository institution that issues paychecks on behalf of a business client from assessing any charge or fee on an individual seeking to cash a paycheck issued by the business client if the paycheck is in payment of wages due, and would have made a depository institution that violates, or causes a business client to violate these provisions, liable for any damages that result to the business client.

SR 22 (FLOREZ) Held in Senate Banking, Finance and Insurance Committee

Would have, generally speaking, resolved that no state agency should do business with any financial institution that charges paycheck cashing fees.

AB 1664 (DE LA TORRE) Held in Senate Rules Committee

As introduced, this was a bill by Assemblymember Gordon that dealt with reporting of elder abuse by financial institutions. The bill was subsequently gutted and amended twice, and in its final form would have increased the penalties for possession and transportation of illegal fireworks.

AB 1687 (CALDERON) Held in Senate Appropriations Committee

Would have allowed more types of entities to own, establish, and acquire control of industrial banks in California.

AB 1965 (LIEU) Failed Passage on Senate Floor

Would have, until January 1, 2009, authorized military borrowers, as defined, to defer payments on deferred deposit transactions for the lengths of their deployment, allowed military borrowers to self-elect deferred deposit transaction repayment plans of at least 180 days, and prohibited deferred deposit transaction licensees from engaging in specified practices with respect to military borrowers.

AB 2122 (KLEHS) Held in Senate Banking, Finance and Insurance Committee

Would have, generally speaking, prohibited a corporation from paying a dividend if the company had failed to fully fund a pension obligation, made a shareholder who received an inappropriate dividend with knowledge of its impropriety liable for the amount of that distribution, and made directors and officers of a corporation jointly and severally liable for improper distributions whether or not they had knowledge of the improprieties.

AB 2969 (MULLIN) Held in Senate Banking, Finance and Insurance Committee

Would have required the Department of Financial Institutions, in cooperation with the High Technology Theft Apprehension and Prosecution Program, to prepare and submit a report to the Legislature by July 1, 2007 recommending guidelines for the purchase of automated teller machines, as specified.

2005 – 2006 INFORMATIONAL HEARINGS

March 30, 2005: “After the Breach: How secure and accurate is consumer information held by ChoicePoint and other data aggregators?” In early February of 2005, 35,000 California residents received a letter from the data broker, ChoicePoint, alerting them that “a recent crime against ChoicePoint...MAY have resulted in your name, address, and social security number being viewed by businesses that are not allowed to access such information.” The committee was one of the first in the nation at which a senior ChoicePoint executive and executives from other data brokers responded to questions both about the security of information held by data brokers and the uses of that information under normal conditions.

May 18, 2005: First of two oversight hearings of the Department of Insurance. At this hearing, consumer advocates urged the commissioner to adopt a new auto rating factors methodology prior to leaving office. The commissioner complied. The committee discussed the financial condition of the State Compensation Insurance Fund (SCIF) and rates for workers’ compensation insurance. It also spoke to those in charge of the Conservation and Liquidation Office (CLO) of the Department of Insurance, and reviewed an unreleased audit of the CLO by the Department of Finance.

November 21, 2005: This was the second of two oversight hearings of the Department of Insurance. At this hearing, the committee examined the department’s failure to investigate hundreds of complaints from consumers about alleged steering and other alleged unfair practices by insurers in auto body repairs. Insurers indicated that they sought to prevent fraud and to improve the quality of body shop repairs on behalf of their customers. Several body shop owners testified, as did the Insurance Commissioner. The committee also evaluated the department’s budget and how it spends its money, concentrating in particular on the subject of the fraud program and how the money is spent. Testimony from this hearing ultimately led to the introduction of SB 1492 (Speier-Cox), a bill dealing with auto body repair that failed passage in the Senate Appropriations committee.