SENATE COMMITTEE ON BANKING, FINANCE and INSURANCE

2009 – 2010 LEGISLATIVE SUMMARY

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INSURANCE

AUTOMOTIVE

BILLS SIGNED INTO LAW

AB 601 (GARRICK) Chapter 247, Statutes of 2009

Extends the sunset date on a 30-cent per insured vehicle assessment from January 1, 2010 to January 1, 2015, to support a variety of consumer protection functions of the Department of Insurance, and to support public outreach concerning California's low-cost automobile insurance program.

AB 1179 (JONES) Chapter 141, Statutes of 2009

Modifies the required content of the Auto Body Repair Consumer Bill of Rights, which the Department of Insurance must then incorporate into future editions, to include information informing consumers that they have a right to seek and obtain an independent repair estimate directly from a registered auto body repair shop, when pursuing an insurance claim for repair of that vehicle.

AB 1200 (HAYASHI) Chapter 387, Statutes of 2009

Revises and recasts California's auto repair anti-steering law duties, obligations and allowed conduct for insurance companies, relative to consumers and other parties in the claims settlement process. Prohibits an insurer from suggesting or recommending that an automobile be repaired at a specific automotive repair dealer unless the claimant requested the referral, or the claimant is informed, in writing, of his or her right to select the automotive repair dealer. Further provides requirements for an insurer's disclosure to the claimant relative to choice of repair facility.

AB 1597 (JONES) Chapter 234, Statutes of 2009

Extends the sunset date on California's low-cost automobile insurance program from 2011 to 2016, enacts various procedural changes to support technology and other operational improvements to the program, and conforms the program's operation to the standardized provisions and procedures of the Administrative Procedures Act.

AB 1871 (JONES) Chapter 454, Statutes of 2009

Defines personal vehicle sharing; imposes recordkeeping rules on personal vehicle sharing programs, intended to ensure that the whereabouts and distances of vehicles traveled by the vehicles in the program are tracked; prohibits insurers from canceling, voiding, terminating, rescinding, or nonrenewing a private automobile insurance policy, solely on the basis that the

insured vehicle has been or will be made available for personal vehicle sharing; authorizes insurers to limit coverage on an insured vehicle made available for personal vehicle sharing to exclude instances when the vehicle is being used by a person other than the owner as part of a personal vehicle sharing program; requires personal vehicle sharing programs to assume liability for the vehicle when it is being driven by someone other than the vehicle owner pursuant through a personal vehicle sharing program; and makes other insurance law changes intended to increase the viability of personal vehicle sharing programs.

BILLS VETOED

AB 725 (JONES)

Would have extended the sunset date for California's low-cost automobile insurance program from January 1, 2011 to January 1, 2016 and renamed this insurance program the Martha Escutia and Jackie Speier low-cost automobile insurance program.

AB 2151 (TORRES)

Would have expanded the automobile insurance protections granted to peace officers, members of the California Highway Patrol, and firefighters, who are involved in vehicular accidents in the performance of their duty, during their hours of employment, by additionally covering situations in which these public safety officers are involved in an accident, when driving their private automobiles at the request or direction of their employers, during their normal hours of employment.

BILLS NOT SENT TO THE GOVERNOR

SB 350 (YEE) Held in Assembly Committee on Business, Professions & Consumer Protection

Would have prohibited an insurer from requiring the use of non-original equipment manufacturer (non-OEM) aftermarket crash parts (ACPs) unless the non-OEM ACPs were at least equal to the original equipment manufacturer (OEM) parts in terms of kind, quality, safety, fit, and performance. The insurer specifying the use of non-OEM ACPs would have been required to pay the cost of any modifications to the parts, which were necessary to effect the repair, and to provide a warranty that the non-OEM ACPs used were of like kind, quality, safety, fit, and performance to OEM ACPs.

SB 1105 (DENHAM) Held in Senate Committee on Banking, Finance & Insurance

Would have permitted the Insurance Commissioner to modify an existing 30-cent per vehicle assessment to an amount not to exceed 30 cents, and changed the distribution of this assessment from specified dollar amounts to fractions of the collected amount (66.7% of the special purpose assessment would be used to fund specified consumer service functions of the Department of Insurance, relating to motor vehicle insurance, and the remaining 33.3% of the assessment would

be used to fund the improvement of certain consumer functions of the department, relating to motor vehicle insurance).

WORKERS' COMPENSATION

BILLS SIGNED INTO LAW

SB 1407 (COMMITTEE ON BANKING, FINANCE & INSURANCE) Chapter 651, Statutes of 2010

Provides that the State Compensation Insurance Fund (SCIF) may invest its excess funds in a manner similar to that used by private insurance carriers, but continues to prohibit SCIF from investing in certain investment vehicles, such as corporate stock, exchange traded call options on common stock, loans secured by first liens on unencumbered leaseholds, and investments in mortgages or mortgage-backed securities.

AB 483 (BUCHANAN) Chapter 241, Statutes of 2009

Requires a licensed rating organization to establish and maintain an Internet Web site to help people determine, free of charge, whether an employer has workers' compensation insurance. Specifies the requirements of the Web site, which, among its requirements, must contain a hypertext link to the Department of Industrial Relations' Internet Web site to allow people to locate employers who may be self-insured. The Web site may not include advertising or links to the Web sites of for-profit organizations. Specifies that the rating organizations, and their affiliates, are not liable for damages or injuries caused by the good faith disclosure of information, or the accuracy or completeness of that information.

AB 1117 (FUENTES) Chapter 136, Statutes of 2009

Clarifies that a SCIF board member is not disqualified, by virtue of a conflict of interest, from considering ratemaking issues before the board due to the fact that the board member is a policyholder or employee of a policyholder of SCIF.

AB 2780 (SOLORIO) Chapter 611, Statutes of 2010

Authorizes the Department of Health Care Services to review individually identifiable information relating to a Medi-Cal claim in order to determine if this claim was actually a result of an 'on-the job injury' that should have been paid by a workers' compensation insurer rather than the Medi-Cal program.

BILLS VETOED

AB 1447 (JOHN A. PEREZ)

Would have clarified that SCIF is a state agency for purposes of the Bureau of State Audits and its audit, evaluation and investigatory jurisdiction. Would have required all SCIF advertising to include a disclaimer indicating that it is self-supported and not funded by the State of California.

AB 2490 (JONES)

Would have required that any agreement between a California employer and a workers' compensation insurer regarding the resolution of disputes, other than a settlement agreement resolving a particular dispute, be part of the form or endorsement filed by the insurer with the rating organization, provided to the employer contemporaneously with any written quote that offers to provide insurance coverage, and contain provisions to resolve disputes that arise in this state in the California courts and under California law. Would also have provided that, prior to the inception of the policy, employers and workers' compensation insurance companies could, after freely negotiating, expressly agree to a choice of law or a choice of forum other than California.

BILLS NOT SENT TO THE GOVERNOR

SB 683 (R. CALDERON) Held in Assembly Committee on Insurance

Would have required each workers' compensation group self-insurer to annually file an audit of its financial accounts and records with the director of the Office of Self Insured Plans within the California Department of Industrial Relations (DIR).

AB 879 (HERNANDEZ) Held in Senate Committee on Banking, Finance & Insurance

Would have required each workers' compensation group self-insurers to annually file an audit of its financial accounts and records and an actuarial analysis with the Office of Self-Insured Plans within the DIR, and would have required DIR to make these financial records available to the public.

AB 2396 (SOLORIO) Held in Senate Appropriations Committee on Suspense File

Would have subjected the Workers' Compensation Insurance Rating Bureau to the open meetings and public records statutes that govern public entities. Would also have required the Bureau to make experience rating information contained in its records available to any information services company that is engaged in furnishing workers' compensation information to insurers admitted to transact workers' compensation insurance in this state or to insurance agents or brokers licensed to transact workers' compensation insurance in this state.

DEPARTMENT OF INSURANCE/LICENSING

BILLS SIGNED INTO LAW

SB 156 (WRIGHT) Chapter 305, Statutes of 2010

Authorizes the Insurance Commissioner to convene meetings with representatives of insurers to discuss suspected or completed acts of insurance fraud.

AB 41 (SOLORIO) Chapter 340, Statutes of 2010

Extends, until January 1, 2015, the sunset date on the requirement that insurers report information on their community development investments and community development infrastructure investments to the Insurance Commissioner, and requires major California insurers to develop and file with the Insurance Commissioner a policy statement regarding community development investments and community development infrastructure investments.

AB 76 (YAMADA) Chapter 75, Statutes of 2009

Extends the sunset date of the Life and Annuity Customer Protection Fund administered by the Department of Insurance (DOI) from January 1, 2010 to January 1, 2015. Also requires DOI to annually publish on its website a report that consolidates designated statistics summarizing DOI's life insurance and annuity consumer protection activities and descriptions of departmental education programs for educating consumers about such products.

AB 299 (COMMITTEE ON INSURANCE) Chapter 234, Statutes of 2009

Makes a number of technical, corrective and clarifying amendments to the Insurance Code and the Vehicle Code.

AB 328 (C. CALDERON) Chapter 433, Statutes of 2009

Authorizes insurance companies to send various required notices electronically, by agreement with the recipient, using procedures that conform to the Uniform Electronic Transactions Act and applicable substantive law. Additionally authorizes insurance companies to pay claims by electronic funds transfers.

AB 470 (NIELLO) Chapter 112, Statutes of 2009

Authorizes an insurance institution, agent, or insurance-support organization to disclose information to an insured's lawyer from an accident report, supplemental report, investigative report or the actual report from a governmental agency or which is a copy of an accident or other report which the insured is entitled to obtain under specified provisions of the Vehicle Code or Government Code.

AB 800 (DUVALL) Chapter 254, Statutes of 2009

Eliminates the option of conducting several significant classes of transactions with DOI by paper, in favor of electronic transactions, and makes numerous other changes, including changes needed to increase the conformity of the Insurance Law with the Producer Licensing Model Act of the National Association of Insurance Commissioners.

AB 1011 (JONES) Chapter 418, Statutes of 2010

Defines “green investments” by insurers, adopts "green investment" principles for insurers, and requires DOI to publish green investments made by insurers on its Web site.

AB 1708 (VILLINES) Chapter 362, Statutes of 2010

Strengthens the capital and surplus requirements for surplus lines insurers and insurance exchanges by increasing the minimum total capital and surplus required of these companies to $45 million, with at least $25 million of that amount required to be comprised of cash or other specified securities (up from $15 million, all of which had to be comprised of cash or other specified securities). Phases in the new requirements, with interim requirements of $30 million required to be met by December 31, 2011, and the $45 million requirement required to be met by December 31, 2013.

AB 1837 (GAINES) Chapter 581, Statutes of 2010

Permits a California domestic insurer to have common directors with an affiliated, non-admitted insurer, provided those common directors do not constitute the majority of the voting authority of the non-admitted insurer and do not perform any management functions for the non-admitted insurer in California. Further authorizes a California domestic insurer to perform specified administrative, claims adjusting, and investment management services on behalf of an affiliated, non-admitted insurer, provided that the non-admitted insurer has been approved by DOI as an eligible surplus line insurer.

AB 2002 (HUFFMAN) Chapter 61, Statutes of 2010

Provides for across-the-board application of risk-based capital financial oversight to insurers operating in California, by repealing a pre-risk-based capital statute that mandates a statutory minimum level of capital reserving for certain non-auto and automobile bodily injury liability insurers.

AB 2404 (HILL) Chapter 387, Statutes of 2010

With respect to insurance policy issues or renewed on or after January 1, 2012, requires an insurer to disclose, in writing, any insurance policy that provides for a refund of premium on a basis other than pro rata, and requires this disclosure to be given prior to, or at the same time as the application and prior to each renewal to which the policy provision applies. Disclosure is not

required if the policy provision permits but does not require the insurer to refund premium other than on a pro rata basis, and the insurer refunds premium on a pro rata basis.

AB 2717 (SKINNER) Chapter 606, Statutes of 2010

Revises standards and procedures that apply to DOI approval of special "senior designations" (used by insurance producers in connection with sales of financial and insurance products to seniors) to enhance their credibility, allow strengthened oversight by the Commissioner, and make designation rules easier for producers to comply with.

AB 2782 (COMMITTEE ON INSURANCE) Chapter 400, Statutes of 2010

Makes multiple technical changes to the Insurance Code, intended to improve the ability of the Insurance Commissioner to regulate the business of insurance, conform California law with the National Association of Insurance Commissioners Producer Licensing Model Act, and eliminate unnecessary annual reporting.

BILLS VETOED

SB 396 (R. CALDERON)

Would have required an existing DOI report on agent licensure activity to include specified information regarding pass rates, including information on the number of first-time examinees who passed their exams, the total number of examinations, mean examination score, and total overall pass rate for all examinees by license category, and, for license categories in which the overall pass rate was less than 65 percent, a demographic breakdown of pass rates by ethnicity/race, gender, and level of education.

AB 2411 (JONES)

Would have defined pet insurance as a separate line within the Insurance Code, distinct from other miscellaneous lines, would have established required policy terms for all pet insurance policies serving California residents, and would have increased the clarity of pet insurance policies.

BILLS NOT SENT TO THE GOVERNOR

AB 802 (DUVALL) Held in Senate Committee on Banking, Finance & Insurance

Would have required insurers to release to specified government agencies any unlawful activity uncovered in the course of an insurance fraud investigation, when requested.

AB 2367 (C. CALDERON) Held on Senate Floor Inactive File

Would have required the Insurance Commissioner to electronically provide notice to insurers regarding changes in the Department's requirements for annual and quarterly statement filings.

HOMEOWNERS/PROPERTY/
CALIFORNIA EARTHQUAKE AUTHORITY

BILLS SIGNED INTO LAW

AB 866 (NIELLO) Chapter 480, Statutes of 2009

Revises the due date of the California Earthquake Authority (CEA) Annual Report from May 1st of each year to August 1st of each year and provides for its publication on the CEA website.

AB 1214 (NAVA) Chapter 517, Statutes of 2009

Requires any privately owned or operated resources hired by an insurer to protect structures threatened by fire or to perform firefighting duties to report to and follow the direction of the Incident Commander, as that term is used in the California's Standardized Emergency Management System.

AB 2022 (GAINES) Chapter 589, Statutes of 2010

Shortens and revises the disclosure notice required to be provided to homeowners by insurers to improve its readability, clarity, and ability to be used for evaluating the adequacy of one's coverage, in the event of a loss or a major catastrophe.

AB 2746 (BLAKESLEE) Chapter 609, Statutes of 2010

Authorizes CEA to contract for the services of a chief mitigation officer, with the goal of supporting and enhancing CEA's various mitigation programs, including collaborative efforts with public and private entities, and subjects this post to Fair Political PracticesCommission Form 700 filing.

BILLS VETOED

SB 1406 (COMMITTEE ON BANKING, FINANCE & INSURANCE)

Would have provided that the provision of existing law, which prevents residential property insurance from being written or renewed, unless the named insured is also offered earthquake coverage within 60 days following this issuance or renewal of the policy, should also be construed as authorizing an insurer to focus on claims and services to existing policyholders during the 60 days following an earthquake.

AB 43 (BLAKESKEE)

Would have removed a 25-person cap on the number of civil service employees the CEA may hire and authorized CEA to contract for the services of a chief mitigation officer, intended to support and enhance CEA's various mitigation programs, including collaborative efforts with public and private entities.

BILLS NOT SENT TO THE GOVERNOR

SB 1258 (KEHOE) Held in Senate Appropriations Committee on Suspense File

An urgency measure that would have imposed a 4.8 percent surcharge on fire or multi-peril insurance policies, to fund state and local emergency response activities. The bill specified that 31.3 percent of collected revenues would have been provided to local fire departments that participate in the state's mutual aid system.

AB 2535 (BLAKESLEE) Held on Senate Floor Inactive File

Would have required CEA make available, in electronic form, nonproprietary materials and documents its governing board uses to determine whether to open CEA participation to additional insurers.

LIFE AND DISABILITY

BILLS SIGNED INTO LAW

SB 98 (R. CALDERON) Chapter 343, Statutes of 2009

Requires the licensing of persons who transact life settlement contracts, makes it unlawful to issue or market the purchase of a new life insurance policy for the purpose of settling the policy, generally prohibits individuals from entering into a life settlement during the initial two years of a policy, authorizes the Insurance Commissioner to disapprove life settlement forms, requires specified disclosures to consumers including a notice of possible alternatives to life settlements, and prohibits predatory practices such as false and misleading statements.

SB 1408 (COMMITTEE ON BANKING, FINANCE & INSURANCE) Chapter 334, Statutes of 2010

An urgency bill that increases the coverage limits payable by the California Life and Health Insurance Guarantee Association on several categories of life insurance products and modernizes the language of the life insurance guarantee association law to more closely conform to the national standards based on the National Association of Insurance Commissioners' Model Law.

AB 2778 (COMMITTEE ON INSURANCE) Chapter 399, Statutes of 2010

Through December 31, 2014, authorizes the Employment Development Department (EDD) Director to approve voluntary plans for the payment of disability compensation by employers, provided the plans are administered by a small business third-party administrator that is approved by EDD. Requires approved plans to meets specified requirements intended to ensure their long-term solvency, their availability to all employees of a given employer, and a level of benefits that is at least as great as those provided under the State Disability Insurance program.

BILLS VETOED

SB 397 (R. CALDERON)

Would have exempted the sale of certain life insurance policies for funeral and burial expenses form the requirement that the agent provide the senior with a notice of at least 24 hours prior to their initial meeting, provided that certain disclosures were made to the senior.

AB 1868 (JONES)

Would have prohibited the Insurance Commissioner from approving any disability insurance policy if it included a provision that would reserve discretionary authority to the insurer to determine eligibility for benefits, and voided certain provisions of a policy or agreement if it provides or funds life insurance or disability insurance coverage and it contains a provision that reserves discretionary authority to the insurer.

BILLS NOT SENT TO THE GOVERNOR

SB 1242 (R. CALDERON) Held in Assembly Committee on Appropriations

Would have enacted several clean-up provisions to SB 98 (Calderon), Chapter 343, Statutes of 2009.

MISCELLANEOUS

BILLS SIGNED INTO LAW

SB 291 (R.CALDERON) Chapter 547, Statutes of 2009

Authorizes a mortgage guaranty insurer to request that the Insurance Commissioner waive a requirement that the insurer cease writing new business, if its policyholder surplus falls below a bright-line statutory ratio. Allows mortgage guaranty insurers to exclude the principal amount of a loan in default from its policyholder surplus calculation, if that insurer has set aside a separate loss reserve for that loan, which is equal to or greater than the amount of surplus that would otherwise have been required for that loan.

AB 389 (SALDANA) Chapter 101, Statutes of 2009

Modifies California long-term care insurance rate oversight law, to allow DOI to monitor the rate increases of older long-term care policies and to assure that adequate premium dollars are going to benefits rather than to insurers. Authorizes DOI to use its own qualified actuaries, in addition to contracted outside professionals, to review long-term care rates.

AB 409 (GARRICK) Chapter 105, Statutes of 2009

Corrects an historic inconsistency in the California Insurance Guarantee Association (CIGA) law to reflect the way in which insurer assessments are calculated. Clarifies that assessments are based upon an insurer's share of direct written premiums, relative to direct written premiums of all participating insurers, as that share is initially determined from the insurers' first Annual Financial Statement filing following the base year, and then as updated yearly from subsequent annual Financial Statement filings.

AB 1051 (FLETCHER) Chapter 502, Statutes of 2009

Consolidates the Department of Veterans' Affairs' (VA) Home Loan Program's four insurance reserve funds into the Pooled Self-Insurance Fund (Pooled Fund), and allows the VA to purchase insurance related to the Program from the monies appropriated from the Pooled Fund. Maintains the four reserve funds as sub-funds within the Pooled Fund and requires that any internal sub-fund borrowing be repaid in full within three years. Requires the VA to report annually to the Legislature on the status of the Pooled Fund.

AB 2327 (HARKEY) Chapter 384, Statutes of 2010

Authorizes an affordable housing entity to join with one or more other affordable housing entities in an arrangement providing for the pooling of self-insured claims or losses involving all of the following types of insurance: 1) insurance covering all or any part of any tort liability, 2)

errors and omissions insurance for employees, board members, officers, partners, managers, members, or volunteers of the affordable housing entity, and 3) insurance covering any loss arising from physical damage to motor vehicles, personal property, real property, or other property owned or operated by the affordable housing entity.

AB 2781 (COMMITTEE ON INSURANCE) Chapter 140, Statutes of 2010

Permits CIGA to issue bonds for an additional two years beyond the current sunset date, to January 1, 2013, but does not increase the total amount of bonds that CIGA may issue.

BILLS VETOED

AB 745 (COTO)

Would have required the third party administrator of a self-funded dental benefit plan to include a disclosure in the explanation of benefits document and benefit claim forms that provides the contact information for the federal Department of Labor, which regulates self-funded plans. This information was intended for use by a consumer who had a payment dispute with his or her plan.

BILLS NOT SENT TO THE GOVERNOR

AB 591 (DE LA TORRE) Held in Senate Appropriations Committee on Suspense File

An urgency measure that would have imposed limits on a health care service plan and health insurers' ability to increase premiums charged to enrollees and policyholders, as specified.

BANKING AND FINANCE

MORTGAGE LENDING AND LICENSING

BILLS SIGNED INTO LAW

SB 36 (R. CALDERON) Chapter 160, Statutes of 2009

Amends California's Real Estate Law, Finance Lenders Law, and Residential Mortgage Lending Act, to ensure compliance with the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (the SAFE Act). Consistent with the SAFE Act, requires every person in California that meets the SAFE Act definition of a mortgage loan originator to become licensed as a mortgage loan originator in California, and to register on the Nationwide Mortgage Licensing System and Registry.

SB 94 (R. CALDERON) Chapter 630, Statutes of 2009

Prohibits persons from charging up-front fees to borrowers to help arrange loan modifications for the borrowers, requires those who wish to charge fees for loan modification services (after performing them) to provide a specified notice to borrowers regarding other no-cost options available to the borrowers, closes a loophole in the California Finance Lenders Law by prohibiting finance lenders law licensees from making a materially false or misleading statement or representation to a borrower about the terms or conditions of that borrower's loan, clarifies that non-profit, HUD-certified housing counselors do not require a real estate license as a condition of helping negotiate mortgage loan assistance for borrowers, and makes a technical change to the definition of an advance fee in the Real Estate Law. The prohibition against charging up-front fees to borrowers in connection with loan modification agreements sunsets January 1, 2013. There is no sunset on the other provisions of the bill.

SB 633 (WRIGHT) Chapter 57, Statutes of 2009

Creates two new exceptions to the law that prohibits persons from requiring an impound or trust account as a condition of a real property sales contract, or a mortgage or deed of trust on single-family, owner-occupied real property. These exceptions include situations where: 1) a loan is made in compliance with the requirements for higher priced mortgage loans established in Regulation Z, and 2) a loan is refinanced or modified in connection with a lender's homeownership preservation program or a similar program sponsored by a federal, state, or local government authority or a nonprofit organization.

SB 931 (DUCHENY) Chapter 701, Statutes of 2010

Requires the holder of a first mortgage or deed of trust that is secured by residential real property to accept, as full payment, the proceeds of a short sale to which it agrees in writing, and obligates

that note holder to fully discharge the remaining amount of the borrower's indebtedness on the deed of trust or mortgage following the sale.

AB 34 (NAVA) Chapter 225, Statutes of 2010

As passed by the Committee, would have amended California's Real Estate Law, Finance Lenders Law, and Residential Mortgage Lending Act, to ensure compliance with the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (the SAFE Act). The SAFE Act provisions of the bill were subsequently amended out, and the bill was chaptered as a measure relating to missing persons.

AB 260 (LIEU) Chapter 629, Statutes of 2009

Enacted the Higher-Priced Mortgage Loan Law, effective July 1, 2010, codified a fiduciary duty for mortgage brokers, effective January 1, 2010; and authorized California's mortgage regulators to treat violations of three federal laws (the Truth in Lending Act, Real Estate Settlement Procedures Act, and Home Ownership Equity Protection Act) as if they are violations of state licensing laws, effective January 1, 2010.

Under the Higher-Priced Mortgage Loan Law, state-regulated lenders and brokers are subject to certain restrictions, when they make or broker loans that meet the definition of a higher-priced mortgage loan (a definition taken from federal Regulation Z, which implements the Truth in Lending Act). The bill differs from federal law in five ways: 1) AB 260 caps the maximum amount of an allowable prepayment penalty to a maximum of 2% of the principal loan amount during the first year of the loan and a maximum of 1% of the principal loan amount during the second year of the loan; 2) AB 260 requires a mortgage broker who arranges only higher-priced mortgage loans to disclose that fact to a borrower, both orally and in writing, at the time of initially engaging in mortgage brokerage services with that borrower; 3) AB 260 prohibits a mortgage broker who arranges a higher-priced mortgage loan from steering, counseling, or directing a borrower to accept a loan at a higher cost than that for which the borrower could qualify based on the loans offered by the persons with whom the broker regularly does business; 4) AB 260 prohibits a mortgage broker who arranges a higher-priced mortgage loan from receiving greater compensation for arranging a higher-priced mortgage loan with a prepayment penalty than the broker would receive for arranging the higher-priced mortgage loan without a prepayment penalty; and 5) AB 260 provides that a mortgage broker who arranges a higher-priced mortgage loan must receive the same compensation for providing those mortgage brokerage services, regardless of whether the compensation is paid by the lender, the borrower, or a third party.

Although the version of AB 260 passed by the Legislature authorizes the Departments of Financial Institutions, Corporations, and Real Estate to enforce TILA, RESPA, and HOEPA as if violations of those federal laws are violations of state licensing laws, the provision of AB 260 giving DRE this authority was chaptered out by another piece of legislation. Thus, as enacted, AB 260 gives only DFI and DOC this authority.

AB 329 (FEUER) Chapter 236, Statutes of 2009

Enacts the Reverse Mortgage Elder Protection Act of 2009. Prohibits any person who participates in the origination of a reverse mortgage from requiring an applicant for that mortgage to purchase an annuity as a condition of obtaining the reverse mortgage loan. Prohibits any person that participates in the origination of a reverse mortgage from doing either of the following: 1) participating in, being associated with, or employing any party that participates in or is associated with any other financial or insurance activity, unless the lender maintains procedural safeguards designed to ensure that individuals participating in the origination of the mortgage have no involvement with, or incentive to, provide the prospective borrower with any other financial or insurance product; or 2) referring the borrower to anyone for the purchase of an annuity or other financial or insurance product prior to closing the reverse mortgage or before the expiration of the borrower's right to rescind the reverse mortgage agreement.

Increases the number of HUD-certified counseling agencies that must be provided by a reverse mortgage lender to a prospective borrower from five to at least ten. Prohibits any HUD-certified housing counseling agency that counsels a prospective reverse mortgage borrower from receiving any compensation, either directly or indirectly, from the lender or from any other person or entity involved in originating or servicing the mortgage or the sale of annuities, investments, long-term care insurance, or any other type of financial insurance product. Revises the notice that must be provided by a reverse mortgage lender to a prospective borrower before the lender takes a loan application from that borrower, requires that the notice be given to the prospective borrower before that borrower receives counseling.

AB 1160 (FONG) Chapter 274, Statutes of 2009

Requires state-regulated lenders who make mortgage loans directly to borrowers, without the involvement of a mortgage brokers, to provide translated mortgage loan disclosure statements to borrowers with whom they negotiate residential mortgage loans in one of five foreign languages (Spanish, Chinese, Tagalog, Vietnamese, or Korean).

AB 1762 (HAYASHI) Chapter 85, Statutes of 2010

Clarifies and updates the definition of an advance fee, as that term is defined under the Real Estate Law. Intended to ensure that two types of fee arrangements, into which Department of Real Estate licensees have historically been able to enter without an advance fee agreement, are not interpreted as requiring advance fee agreements by the Department of Real Estate at some time in the future. These two fee arrangements include: 1) entering into a limited services contract (an a la carte arrangement, which allows a licensee to price services on a piece-by-piece or task-by-task basis, and to receive payment from a client as each piece or task is completed) and 2) entering into a contract in which a commission will be earned by the licensee, after the completion of the contract.

AB 2347 (FEUER) Chapter 597, Statutes of 2010

Authorizes local entities (including cities, counties, a city and county, redevelopment agencies, or any political subdivision of one of these entities) to postpone nonjudicial foreclosures for up to 60 days, on certain multifamily properties in which they hold ownership interests. The multifamily properties that are the subject of this bill are those on which a deed has been recorded, which restricts all or a portion of the property's usage to rental to lower income households. Any delay in the foreclosure process that occurs based on a public entity's exercise of the authority granted by the bill expire once 180 days elapses from the date of notice of default was recorded on the property.

BILLS VETOED

AB 764 (NAVA)

Until January 1, 2013, would have prohibited all persons from charging fees in connection with loan modification agreements, until they had obtained loan modifications on behalf of their clients, and would have required those who sought to charge fees in connection with loan modification agreements to provide a specified notice to borrowers regarding other no-cost options available to the borrowers. With no sunset date, would have codified a Department of Real Estate regulation, by requiring real estate licensees wishing to engage in an advance fee agreements to submit their agreements, and all materials intended to be used in obtaining those advance fee agreements (including, but not limited to contract forms, solicitation materials, and radio and television advertising), to DRE at least ten calendar days before their use, for review by DRE. Would have clarified that non-profit, HUD-certified housing counselors do not require a real estate license in order to help negotiate mortgage loan assistance for borrowers.

BILLS NOT SENT TO THE GOVERNOR

SB 660 (WOLK) Failed Passage in Assembly Committee on Banking & Finance

As heard and passed by this committee, the bill would have imposed a duty of honesty, good faith, and fair dealing on any lender, broker, person, or entity who recommended the purchase of a reverse mortgage to a borrower in anticipation of financial gain, revised the disclosure notice required to be provided to reverse mortgage loan applicants, and would have prohibited a lender from accepting a reverse mortgage loan application unless the lender provided the prospective borrower with a specified written checklist alerting the borrower to subjects that he or she should discuss with a loan counselor, prior to borrower's meeting with a HUD-certified counseling agency. The bill was subsequently amended to delete provisions relating to the disclosure notice and the written checklist, and to define the duty of honesty, good faith, and fair dealing.

SB 1275 (LENO AND STEINBERG) Failed Passage on the Assembly Floor

As originally heard and passed by the Committee, the bill would have required mortgage loan servicers to complete additional actions before recording a notice of default (NOD), and record a new document, called a declaration of compliance, as an attachment to every NOD; and would

have established specific penalties to be applied to servicers that failed to comply with the provisions of the bill. Would have included the following, among the additional actions that servicers would have been required to perform, prior to recording a NOD: mail borrowers a notice informing them of their foreclosure-related rights and regarding foreclosure avoidance options that may be available to them; mail borrowers an application for a loan modification or other alternative to foreclosure; evaluate borrowers who submit a written request for a loan modification or other alternative to foreclosure for that modification or other alternative; and mail borrowers who have been denied a loan modification or other alternative to foreclosure a detailed denial explanation letter explaining the reasons for their denial.

The bill was subsequently amended, and was re-heard and re-passed by the Committee. In its amended form, the bill distinguished between servicers required to comply with the federal Making Home Affordable Program (HAMP) and servicers who were not required to comply with HAMP. The amended bill retained the same concepts that were contained in the earlier version of the bill (additional actions prior to recording a NOD, recordation of a Declaration of Compliance, and penalties for failure to comply), but imposed different sets of requirements on HAMP and non-HAMP servicers, revised the specifics and timelines of some of the required actions, and clarified the penalties for failure to comply. After passing the Committee a second time, the bill was subsequently amended several times, to further clarify its intent.

SBX8 38 (CORBETT) Held in Senate Committee on Banking, Finance & Insurance

Substantially similar to the as introduced version of SB 1275. Never taken up by the author.

CALIFORNIA FINANCE LENDERS LAW

BILLS SIGNED INTO LAW

SB 1146 (FLOREZ) Chapter 640, Statutes of 2010

Authorizes the creation of a four-year, statewide pilot program under the California Finance Lenders Law (CFLL), to increase the availability of affordable, low dollar value (<$2,500) loans. Requires finance lenders wishing to participate in the pilot program to apply to, and be accepted by the Commissioner of Corporations for admission into the pilot program, adhere to specified underwriting guidelines and late fee schedules, report borrower payment history to at least one major credit bureau, submit to biennial examinations by the Commissioner, and refrain from selling certain insurance products in connection with pilot program loans. Allows finance lender licensees accepted into the pilot program to charge higher rates and fees than currently allowed under the CFLL and to use the services of one or more unlicensed finders to help sign up borrowers.

AB 401 (RUSKIN) Chapter 102, Statutes of 2009

Eliminates the sunset date on a provision of the California Finance Lenders Law (CFLL), which allows tax-exempt foundations and charities to make loans for charitable program-related purposes, without having to obtain a CFLL license.

BILLS VETOED

None

BILLS NOT SENT TO THE GOVERNOR

None

ESCROW LAW

BILLS SIGNED INTO LAW

SB 306 (R. CALDERON) Chapter 43, Statutes of 2009

An omnibus bill that enacts three separate sets of provisions. One set are a clean up to SB 1137 (Chapter 69, Statutes of 2008). One set exempts money or property held by or deposited with a person acting as an exchange facilitator from the list of real property escrows for which the Escrow Agents' Fidelity Corporation is required to provide fidelity coverage. A third set codifies the concept of a short sale payoff demand statement (called a short pay demand statement in the bill) and establishes procedures and time frames governing the ability of an escrow agent to request a short pay demand statement from a lender that has agreed to a short sale on a given property.

SB 204 (BENOIT) Chapter 568, Statutes of 2009

As originally heard and passed by the Committee, the bill enacted changes to the Escrow Law, relating to annual fees, audit frequency, and license surrender, and changes to the Residential Mortgage Lending Act, related to license surrender and branch office closures. The provisions relating to the Residential Mortgage Lending Act were later amended out of the bill, and new provisions, relating to fidelity bonds and errors and omissions insurance required to be obtained by exchange facilitators, were amended into the bill.

As passed by the Legislature and signed by the Governor, the bill permanently caps the Escrow Law licensee annual assessment at $2,800 per licensee; increases the amount of the special assessment the commissioner may levy, if the annual assessment is insufficient to cover his or her annual expenses related to administering the Escrow Law; makes it easier for an escrow agent to surrender his or her license; clarifies that exchange facilitators may obtain fidelity bonds and errors and omissions insurance from an eligible surplus lines insurer that is on the list of such insurers maintained by the Insurance Commissioner; and clarifies that the $1 million requirement for fidelity bonding is aggregate coverage, not per occurrence coverage.

BILLS VETOED

SB 1223 (R. CALDERON)

Would have required an escrow agent to return all deposits and fees received from a bidder in connection with an auction sale of real property that was the subject of a foreclosure sale, upon receipt of escrow instructions directing the return of deposits placed on deposit with that agent by the bidder. Would also have required the Escrow Agents' Fidelity Corporation to be provided with notice, if an escrow agent's surety bond was released, substituted, cancelled, withdrawn, or nonrenewed.

SB 1363 (RUNNER)

Would have required all newly hired officers, directors, trustees, and escrow managers of a licensed escrow agent, and all officers, directors, trustees, and escrow managers of a newly licensed escrow agent to complete a course in escrow management conducted by the Commissioner of Corporations, within twelve months following each individual's receipt of a Fidelity Corporation certificate.

BILLS NOT SENT TO THE GOVERNOR

None

FINANCIAL SERVICES LAW ADMINISTRATION

BILLS SIGNED INTO LAW

SB 1137 (COMMITTEE ON BANKING, FINANCE & INSURANCE) Chapter 287, Statutes of 2010

A cleanup bill to SB 36 (Calderon), which enacts technical changes to allow DOC and DRE to more effectively implement the SAFE Act. SB 1137 contains one substantive provision, which reduces the net worth requirement for California Finance Lenders Law licensees that broker (but do not make) residential mortgage loans to $50,000, from $250,000. The net worth requirement for CFLL licensees that make, or make and broker residential mortgage loans remains $250,000.

AB 33 (NAVA) Chapter 224, Statutes of 2010

As passed by the Committee, effective July 1, 2011, would have reorganized the Departments of Financial Institutions and Corporations as divisions, under a newly-created Department of Financial Services; consolidated the Office of Real Estate Appraisals into the Department of Real Estate; and created an Office of Financial and Real Estate Consumer Advocacy within the Department of Financial Services. Would, effective January 1, 2011, have required the preparation and submission of two comprehensive reports containing recommendations regarding how the departmental consolidations and reorganizations should be implemented. Would, effective July 1, 2012, have shifted certain mortgage lending, brokering, servicing functions, and business opportunity activities out from under the Real Estate Law and over to a new law administered by the new Division of Corporations. The departmental reorganization and consolidation provisions were subsequently amended out of the bill, and the bill was chaptered as a measure relating to missing persons.

AB 1268 (GAINES) Chapter 532, Statutes of 2010

Reorganizes and consolidates provisions of the Financial Code administered by the Department of Financial Institutions (DFI), by moving the powers and authority of the Commissioner of Financial Institutions (Commissioner) into one chapter of the Financial Code and consolidating other laws that are applicable to all of DFI's licensees into one body of law.

AB 1566 (COMMITTEE ON BANKING & FINANCE) Chapter 397, Statutes of 2009

Extends the sunset date, by five years (to January 1, 2015) on a provision of law which describes the information a depository institution is required to provide a customer, in lieu of a cancelled check. The information that is required to be provided to a customer is intended to allow that customer to reasonably identify the items paid from his or her account, in order to determine whether those items were authorized.

AB 2789 (COMMITTEE ON BANKING & FINANCE) Chapter 612, Statutes of 2010

Consolidates the Transmission of Money Abroad Law, Travelers Checks Act, and the Payment Instruments Law into a single Money Transmission Act, administered by the Department of Financial Institutions.

BILLS VETOED

None

BILLS NOT SENT TO THE GOVERNOR

None

MISCELLANEOUS

BILLS SIGNED INTO LAW

SB 116 (R. CALDERON) Chapter 23, Statutes of 2009

Makes technical changes intended to improve the state's ability to sell registered reimbursement warrants (RAWs) the next time the state's fiscal situation requires a RAW sale.

SB 1155 (DUTTON) Chapter 516 Statutes of 2010

Amends the Capital Access Company Law, by changing the definition of a small business and adding a definition for a smaller business; exempting businesses from the Capital Access Company Law, if they are approved as Small Business Investment Companies by the federal Small Business Administration; replacing existing law conflict of interest provisions with conflict of interest provisions utilized by the federal Small Business Administration for its licensees, and further limiting which persons may make recommendations regarding investment of funds of a Capital Access Company.

SB 1188 (WRIGHT) Chapter 179, Statutes of 2010

As passed by the Committee, would have added add a new division to the Financial Code related to debt settlement organizations, effective January 1, 2012, and would have given the Department of Corporations limited regulatory authority over companies engaged in debt settlement. The debt settlement provisions of the bill were subsequently amended out, and the bill was chaptered as a measure relating to child custody.

SB 1344 (KEHOE) Chapter 112, Statutes of 2010

Deletes the sunset date on a provision of law that allows local agencies to invest up to 30% of their surplus funds in certificates of deposit at depository institutions, in such a way that the full amount of each local agency deposit is federally-insured.

AB 991 (SILVA) Chapter 131, Statutes of 2009

A cleanup bill, which updates and corrects the references to various stock exchanges, markets, and regulatory bodies in the California Corporations Code and makes related technical and conforming changes.

AB 1550 (COMMITTEE ON BANKING & FINANCE) Chapter 154, Statutes of 2009

Authorizes the Department of Water Resources to restructure a portion of its power supply revenue bonds, with the aim of reducing its long-term borrowing costs. The bill allows DWR to restructure certain variable rate bonds, by changing them to fixed-rated bonds.

BILLS VETOED

AB 1357 (COTO)

Would have increased the maximum allowable rates that may be charged by pawnbrokers on loans over 90 days to 2.5% on the remaining unpaid balance (rather than the existing stair-step series of percentages that rise from 1% to 2.5% depending upon the size of the unpaid balance).

AB 1718 (BLUMENFIELD)

Would have reauthorized and recast the Senior Citizens and Disabled Citizens Property Tax Postponement Program, and shifted funding for that program from the state General Fund to counties that voluntarily opted in. Eligibility for the new program would have remained similar to the eligibility for the former, now-discontinued program, but liens representing loans made through the program would have been given super-priority status, rather than judgment lien status, as was previously the case. Financial institutions would have been prohibited from foreclosing on properties owned by program participants, due to the participants' failure to pay property taxes. (Financial institutions would not have been prevented from foreclosing, if the program participants failed to pay their mortgages). Financial institutions would also have been prohibited from requiring program participants to maintain impound or trust accounts for payment of their property taxes.

AB 2457 (SALAS)

Would have established the California Financial Literacy Fund, administered by the State Controller, to support partnerships with the financial services community and other stakeholders, to improve Californians' financial literacy. Would have authorized the Controller to accept private donations from entities with no direct financial interest in any financial products, for deposit into the CFLF. Would have required the Controller, beginning in 2012, to submit a brief annual summary regarding the use of the funds in the CFLF to the chairpersons of the Assembly Committee on Banking & Finance and the Senate Committee on Banking, Finance & Insurance, by August 30th of each year.

AB 2581 (BRADFORD)

As passed by this Committee, would have created a Banking Development District (BDD) Program, administered by the State Treasurer, to encourage the establishment of banking branches in, and the provision of additional product lines or services to, specified underserved areas. Would have defined a BDD as a specifically designated geographic location comprising an underserved community, designated as such by the Treasurer, and would have defined an underserved community as a remote location or impoverished area that lacks banking services commensurate with the services provided to higher income areas with a population of similar size. Would have authorized a local agency (defined as a city, county, city and county, or town) to submit an application to the Treasurer, in conjunction with a depository institution, for the designation of an underserved community as a BDD. Upon approval of an application by the Treasurer, the depository institution located within a BDD would have been eligible for a range

of incentives, which could have included, but were not required to be limited to access to deposits of state funds, access to local agency deposits, assistance from local agencies in locating suitable commercial space for branches, local tax incentives, and workforce development assistance. Before it was sent to the Governor, the bill was amended to substitute the Department of Financial Institutions for the State Treasurer as administrator of the BDD program.

BILLS NOT SENT TO THE GOVERNOR

SB 394 (WYLAND) Held in the Senate Committee on Banking, Finance & Insurance

Would have authorized an account holder to dispute or seek to correct any charge imposed on that person's account, which the person claimed was fraudulent, incorrect, or inappropriate, at any time within one year after the charge was imposed. Never taken up by the author.

SB 875 (PRICE) Held in the Senate Committee on Banking, Finance & Insurance

Would have added a new exemption to the Corporations Code, exempting certain issuers of securities from the requirement to qualify their offerings. To qualify for the exemption, the issuers would have had to use a general solicitation or a form of general advertising, but would have been able to make unsolicited telephone calls to a person's residence, if the issuer believed that person to meet the definition of an accredited investor. Never taken up by the author.

SB 1000 (CORREA) Held in the Senate Committee on Banking, Finance & Insurance

Would have provided for appraisal portability, by requiring a residential mortgage lender to accept and rely upon a real property appraisal that was obtained by prospective borrower, in connection with a mortgage loan application with a different residential mortgage lender. Never taken up by the author.

AB 350 (LIEU) Held in Senate Committee on Judiciary

Would have enacted the Debt Settlement Services Act, effective January 1, 2012, administered by the Department of Corporations, to license debt settlement service providers. Would have exempted licensed debt settlement service providers from the Prorater's Law, and would have capped the fees that could be charged by debt settlement services licensees at 20 percent of the amount of debt an individual brought into the debt settlement program, including a five percent setup fee. Would have required the total fees to be spread over at least half the length of the debt settlement program, unless accelerated by the individual or until offers of settlement by creditors were obtained on at least half of the debts brought into the program. Would have provided that total fees plus settlements could not exceed the principal amount of the debt brought into the program. Would have prohibited the imposition of fees by a licensee until a written agreement is in place between the licensee and the individual. Would have required and prohibited specified acts and practices by providers; allowed individuals, law enforcement agencies, and the commissioner to bring actions against licensees for violations of the Debt Settlement Services Act; and subjected violators to administrative, civil and criminal penalties for failure to comply.

AB 377 (MENDOZA) Held in Senate Committee on Judiciary

Would have enacted a significant number of changes to California's Deferred Deposit Transaction (Payday Lending) Law. Among the more significant of these changes: 1) the maximum amount of a check used to obtain a payday loan would have been increased from $300 to $500; 2) a fee of 5 cents per transaction would be levied on payday lenders to fund a financial literacy program administered by the Commissioner of Corporations; 3) would have required all applicants for a payday loan license to identify any product or service, other than payday lending, that the applicant intends to offer in its office(s), and which the applicant anticipated would generate over 5% of the gross monthly revenue of any of its offices; 4) would have allowed a payday loan customer who was unable to repay his or her payday loan when due to elect, once in any 12-month period, to replay his or her payday loan using an extended payment plan, as specified; 5) would have prohibited a payday loan licensee from placing an advertisement primarily intended to reach California residents, including Internet advertisements, without disclosing that the applicant is licensed by the Department of Corporations pursuant to the California Deferred Deposit Transaction Law, and would have required this disclosure to be in the same language as the primary language of the advertisement; and 6) would have prohibited a licensee from threatening a customer with any criminal penalty for failure to comply with the terms of a payday loan agreement.

AB 919 (NAVA) Failed Passage in Senate Committee on Banking, Finance & Insurance

Would have required specified corporations that engaged in political activity, as defined, to mail their California shareholders a Political Activity Report summarizing the corporation's political contributions, and allow shareholders who to objected to those contributions to receive a pro rata refund of those contributions.

AB 1548 (COMMITTEE ON BANKING AND FINANCE) Held in Senate Committee on Banking, Finance & Insurance

Would have defined the term "authorized delegate," for purposes of the Payment Instruments Law, to mean a person that a licensee designates to provide money transmission services on behalf of the licensee. Never taken up by the author.

AB 1720 (GALGIANI) Failed Passage in Senate Committee on Banking, Finance & Insurance

Would have amended the Buyer's Choice Act to add short sales, required sellers to provide a specific disclosure form to borrowers to describe their rights under the Buyer's Choice Act, and prescribed specific actions that would have had to be taken by buyers wishing to purchase, and financial institution sellers wishing to sell property acquired by the financial institution at a nonjudicial foreclosure sale. The Buyer's Choice Act was enacted in 2009, to prohibit financial institutions that acquire single-family residential real property through foreclosure from requiring buyers of those properties property to purchase title insurance or escrow services in connection

with the sales of those properties from a particular title insurer or escrow agent. The Buyer's Choice Act sunsets on January 1, 2015.

2009– 2010 INFORMATIONAL HEARINGS

BANKING AND FINANCE:

March 18, 2009, "Making State and Federal Mortgage Foreclosure Rescue Plans Work: Can At-Risk Homeowners Be Saved?": In January 2007, the Senate Banking, Finance & Insurance Committee began holding informational hearings on a problem whose nature, depth, and breadth changed enormously as time passed. What started out as a nontraditional and subprime mortgage problem – a blip in an otherwise healthy economy –evolved into a global liquidity crisis and an economic downturn that some economists labeled the Great Recession, because of its severity.

When it first began, the problem seemed limited to subprime borrowers with poorly underwritten and inadequately disclosed mortgage loans. Yet, as the problem grew and the economy weakened, the effects of what was initially labeled "the subprime mortgage crisis" spread to borrowers among all walks of life and income levels, and to all types of loans. For some, the problem is mortgage affordability. Either mortgage payments have grown to levels that are no longer sustainable by borrowers, or borrowers' financial situations have declined to levels that can no longer accommodate an unchanged mortgage payment. For others, the problem has increasingly become a negative equity problem.

Many more borrowers are leaving mortgages they can afford, because their home values have fallen below their mortgage values, and the borrowers would rather walk away from a bad investment than spend years trying to rebuild their home equity. Some cry foul at these actions, harkening back to a time when one took responsibility for one's investment decisions, and observed one's contractual obligations, despite the financial consequences of doing so. Others ask simply, "Why prolong a bad investment? Why not cut my losses and start to rebuild?"

Neither the federal government nor the state stood still while mortgage problems grew and the economy faltered, yet still, the problems grew worse. In February 2009, after a year of disorganized attempts to prop up the financial sector and enact programs touted as "the solution we have been waiting for," the federal government announced its latest solution – the Making Home Affordable program.

On March 18, 2009, the Senate Banking, Finance & Insurance Committee reviewed the details of the Making Home Affordable program and examined California's own recently-enacted laws (AB 7 x2 and SB 7 x2), which were intended to provide relief to the same borrowers targeted for help with the new federal plan. Questions addressed by the invited witnesses included the following: Will these federal and state efforts truly work? Will they reduce foreclosure rates? Stop the free-fall of housing values? Rekindle a market for home mortgage refinance? Help restore confidence among beleaguered Californians? Or are they simply the latest installments in an ever-growing assemblage of well-meaning, ineffective plans, notable only for their growing size and complexity? Witnesses included state regulators, consumer advocates and housing counselors, and servicing industry representatives.

February 3, 2010, "Borrowing from Peter: The Evolving Role of Person to Person Lending in California" (Postponed from October 2009 to February 2010, because of a conflict with state budget deliberations): Taking a break from mortgage-related issues, the Committee became the first to examine an emerging source of credit for both individuals and businesses. On February 3, 2010, drawing on expert testimony from executives at Prosper, Inc. and LendingClub, the two largest person to person lenders in the United States, the Committee reviewed P2P lending from top to bottom -- what it is, how it works, how long it's been around, what it's used for, how it has evolved over time, and how some of its key architects envision it evolving in the future. Industry chief executives, P2P site users, state regulators, and consumer advocates addressed the committee about the state of the P2P industry today, and about their visions for the P2P industry of the future. All of the witnesses in attendance agreed that California should support this growing industry, and should look for ways to help relieve the regulatory burdens on P2P market participants.

March 16, 2010, "Implementation of Key Foreclosure-Related Legislation: Status Updates and Recommendations for Future Action: Beginning in 2007, the California Legislature enacted several pieces of legislation intended to facilitate effective communication between borrowers and their mortgage servicers, encourage servicers to evaluate struggling borrowers for non-foreclosure options before deciding to foreclose, and to help alleviate some of the financial hardships experienced by borrowers who lost their homes through foreclosures, short sales, and deeds-in-lieu of foreclosure. On March 16, 2010, the Senate Banking, Finance & Insurance Committee and Senate Judiciary Committee jointly reviewed the impact of five pieces of recent, foreclosure-related legislation, including SB 1055 (Machado), Chapter 282, Statutes of 2008; SB 1137 (Perata, Corbett, Machado), Chapter 69, Statutes of 2008; SBx2 7 (Corbett), Chapter 4, Statutes of 2009; ABx2 7 (Lieu), Chapter 5, Statutes of 2009; and SB 94 (Calderon, Steinberg, Corbett), Chapter 630, Statutes of 2009.

Questions discussed during the hearing included the following: Is the legislation being followed? Is it working? Should it be changed? Should it be extended? Invited witnesses included representatives from the lending industry, consumer advocates, state regulators, local governments, tax professionals, and individual taxpayers.

INSURANCE:

March 24, 2010, "Legislative Informational Hearing on Proposition 17 on the June 8, 2010 Statewide Primary Election ballot": Held jointly with the Assembly Insurance Committee, and in accordance with the Elections Code, this hearing provided an unbiased review of the content of Proposition 17, which appeared on California's June 8, 2010 ballot, and which proposed to revise Proposition 103, enacted by California voters in 1988.

The official title and summary of Proposition 17 read as follows:

> *ALLOWS AUTO INSURANCE COMPANIES TO BASE THEIR PRICES IN PART ON A DRIVER'S HISTORY OF INSURANCE COVERAGE. INITIATIVE STATUTE.*

- *Changes current law to permit insurance companies to offer a discount to drivers who have continuously maintained their auto insurance coverage, even if they change their insurance company, and notwithstanding the ban on using the absence of prior insurance for purposes of pricing.*

- *Will allow insurance companies to increase cost of insurance to drivers who do not have a history of continuous insurance coverage.*

- *Establishes that lapses in coverage due to nonpayment of premium may prevent a driver from qualifying for the discount.*

Those testifying on the matter included subject matter experts from the Legislative Analyst's Office and the California Department of Insurance, proponents of the measure (including a Vice-President of Mercury Insurance Company and a representative of the American Agents' Alliance), and opponents of the measure (including a representative of Consumer Watchdog, the group which had authored Proposition 103 in 1988, and representatives of the United Services Automobile Association and the Greenlining Institute).