

SENATE COMMITTEE ON INSURANCE

2015 – 2016 LEGISLATIVE SUMMARY

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LEGISLATIVE MEASURES

AUTOMOTIVE

BILLS SIGNED INTO LAW

AB 2354 (Calderon) Chapter 386, Statutes of 2016

Clarifies the law pertaining to a vehicle service contract (VSC), expands the types of services that may be provided under a VSC, and reclassifies warranties offered by manufacturers of certain motor vehicle lubricants and treatments as VSCs.

BILLS NOT SENT TO THE GOVERNOR

SB 1424 (Wieckowski) Held in Senate Insurance Committee

Would have extended the distance from 20 miles to 25 miles that an insurer may require an insured to travel from the address where a vehicle is insured so that the insurer may inspect the vehicle before issuing collision and comprehensive insurance.

AB 933 (Frazier) Held in Senate Rules Committee

As heard by the Insurance Committee, would have provided that a person who provides his or her driver's license number to an insurance agent or broker, insurance licensee, employer or prospective employer for the purpose of eligibility, underwriting, and rating of personal or commercial insurance coverage or eligibility for employment or continued employment involving the use of a motor vehicle, is presumed to have consented to provide access to Department of Motor Vehicle (DMV) records or information, as specified; allowed an insurance agent or broker to transmit a person's motor vehicle record for those purposes; and provided that the agent or broker is not responsible for the subsequent handling of the record if the recipient is otherwise authorized to receive the record by the DMV. The bill was subsequently amended to authorize the court to order a person convicted of a crime as defined to enroll and participate in, and successfully complete, a qualified "24/7 Sobriety program" as a condition of probation, as specified, and was re-referred to the Senate Rules Committee.

AB 2885 (Committee on Insurance) Died on the Inactive File

Would have eliminated obsolete language from the statutes governing the Low-Cost Automobile Insurance Program.

DEPARTMENT OF INSURANCE

BILLS SIGNED INTO LAW

SB 488 (Block) Chapter 833, Statutes of 2016

Permits a public insurance adjuster (PIA) actively serving in the military to defer license renewal. Also makes numerous revisions to the law applicable to a PIA by expanding the categories of persons that must be licensed as a PIA; requiring pre-licensing education and work experience and a criminal background check; eliminating the interim PIA license and establishing an apprentice PIA license; limiting PIA compensation for contracts in which an insured has already filed a claim; tolling the three-business-day cancellation period until the client receives a copy of the signed contract; clarifying when and how PIA may solicit clients after a catastrophic disaster; and extending the three-business-day cancellation period to five calendar days for claims resulting from a catastrophic disaster.

AB 1899 (Calderon) Chapter 560, Statutes of 2016

Requires, until January 1, 2024, the Department of Insurance to provide the licensing examinations for life, life-only, and accident and health licensees in Spanish.

BILLS VETOED

AB 2588 (Chu)

Would have permitted an independent insurance adjuster (IA) actively serving in the military to defer license renewal. Would have also required all individuals who act as an IA to hold a license; established apprentice and nonresident IA licenses; and made comprehensive revisions to licensing qualifications and standards applicable to resident and non-resident IAs.

AB 2728 (Atkins)

Would have added to the categories of investments that qualify under the certification standards established for California Organized Investment Network program and extended the Community Development Financial Institution Tax Credit from January 1, 2017, to January 1, 2018.

HOMEOWNERS/PROPERTY/ CALIFORNIA EARTHQUAKE AUTHORITY

BILLS SIGNED INTO LAW

SB 335 (Roth) Chapter 97, Statutes of 2015

Requires additional earthquake insurance premium paid as a result of failure to comply with specified building code standards to be refunded to an insured that subsequently brings the dwelling up to code, pro-rated as of the date the approved inspection record is received by the insurer, and makes other technical and clarifying changes.

SB 1302 (McGuire) Chapter 543, Statutes of 2016

Requires insurers admitted to sell property insurance in the state to provide the California FAIR (fair access to insurance requirements) Plan (FAIR Plan) Internet Web site address and statewide toll-free telephone number to an applicant for insurance who is denied coverage, or a policyholder whose policy is canceled or non-renewed; requires the FAIR Plan to establish and maintain an Internet Web site through which a person may receive information and assistance in applying for insurance; requires an insurance agent or broker transacting basic property insurance to assist a person in making an application for insurance through the FAIR Plan, another insurer offering coverage, or provide the person with the FAIR Plan Web site and phone number; and declares that it is an urgency statute.

AB 447 (Maienschein) Chapter 432, Statutes of 2015

Prohibits an insurer admitted to issue insurance policies covering real property designed for human habitation, including single family homes, condominiums and multiunit commercial apartments, from failing or refusing to accept an application for, issue a policy to an applicant for insurance, or cancel a policy based on the source of income of residential tenants or the receipt of housing assistance by tenants from the federal or state government or from a local public entity, and prohibits the insurer from requiring this information on the application for insurance, as specified.

AB 499 (Cooley) Chapter 549, Statutes of 2016

Eliminates the presumption of delivery of the mandatory offer of earthquake insurance disclosure form if the applicant for homeowners' insurance does not return a signed acknowledgement of receipt within 60 days of the date it was provided; revises the requirement for a stand-alone notice of changes in the terms and conditions of an earthquake insurance policy at renewal to only require the stand-alone notice if the modifications reduce or substantially differ from the coverage previously provided; establishes a consistent proof of mailing or delivery presumption for any offer, disclosure, or document required to be delivered under statutes governing the mandatory offer or renewal of earthquake insurance; and makes other technical and clarifying changes.

AB 704 (Cooley) Chapter 370, Statutes of 2015

Eliminates the \$7,500 deposit an underwritten title company (UTC) must place with the Insurance Commissioner (IC) for each county where it offers escrow services and requires a UTC to make a deposit or purchase a bond in an amount determined by the volume of documents it files in those counties where it offers escrow services; authorizes the IC to accept a letter of credit in lieu of a bond or deposit under specified circumstances; and authorizes the surety or the issuing bank to pay the full amount of its liability to the IC as conservator, liquidator, or receiver in lieu of payment to the state or persons having a cause of action against the obligor.

AB 1645 (Dababneh) Chapter 62, Statutes of 2016

Prevents the automatic re-enactment of a restriction on the amount of mortgage guaranty insurance that a mortgage guaranty insurer may write on residential property designed for occupancy of four families or less, absent that mortgage guaranty insurer purchasing reinsurance on those policies.

AB 2161 (Quirk) Chapter 73, Statutes of 2016

Allows an insurer to consider the installation of vehicle barriers as a safety measure for purposes of providing or offering a discount on the property owner's commercial property insurance, and requires any such discounts to be determined to be actuarially sound and approved by the Insurance Commissioner prior to their use.

AJR 6 (Cooley) Resolution Chapter 83, Statutes of 2015

Recognizes the need for federal legislation that establishes guarantees of post-earthquake financing for pre-qualified, actuarially sound state earthquake programs, including the California Earthquake Authority, and urges the President of the United States and the Congress of the United States to enact such legislation.

BILLS VETOED

AB 764 (Quirk)

Would have required the California Building Standards Commission, in collaboration with the State Architect and the State Fire Marshall, to consider standards, at each model code adoption review, for installation of vehicle barriers in the design of any new building; defined a vehicle barrier for this purpose; and allowed an insurer to consider the installation of a vehicle barrier as a safety measure and provide or offer a discount on the property insurance of a commercial property owner who installs such a vehicle safety barrier, if actuarially sound and approved by the Insurance Commissioner, as specified.

AB 1232 (Cristina Garcia)

Would have provided an applicant whose license to act as an insurance agent, broker, or solicitor

has been denied by the Department of Insurance the option to request a hearing in front of an administrative law judge (ALJ) from the Office of Administrative Hearings or an ALJ from department's Administrative Hearing Bureau, and would have authorized the Insurance Commissioner to assign the case if the applicant fails to select a preference.

BILLS NOT SENT TO THE GOVERNOR

SB 336 (Roth) Held in Assembly Insurance Committee

Would have recast the premium discount or credit for seismic retrofitting on California Earthquake Authority policies to require that the discount or credit be at least 5%.

SB 602 (Monning) Held in Assembly Appropriations

Would have added the California Earthquake Authority to the list of public entities authorized to utilize property assessment districts, impose liens and issue bonds for the purpose of creating a statewide earthquake mitigation assessment district to fund loans for voluntary homeowner-financed residential seismic strengthening improvements.

AB 1429 (Chiu) Held in Senate Insurance Committee

Would have recognized the California Residential Mitigation Program (CRMP), a joint powers authority created in 2012 by the California Earthquake Authority and the Office of Emergency Services to provide grants to residential homeowners for the purpose of defraying the cost of seismic retrofitting, among other purposes and required, if the Legislature appropriated funds, the CRMP to implement a grant program and, on or after July 1, 2017, make grants that assist a qualifying owner of a multiunit residential structure defray the owner's cost of seismic retrofitting of the structure, as specified. The language of this bill regarding the CRMP was included in budget trailer bill SB 84 (Committee on Budget and Fiscal Review) Chapter 25, Statutes of 2015, but only applies to residential dwelling with up to 10 units.

AB 1440 (Nazarian) Held in Senate Insurance Committee

Would have authorized the CRMP to provide grants to residential homeowners for the purpose of defraying the cost of seismic retrofitting, among other purposes; required, if the legislature appropriated funds, the CRMP to implement a grant program; and, on or after July 1, 2017, make grants to assist a qualifying owner of a single-family residential structure that defray the owner's cost of seismic retrofitting of the structure, as specified. The language of this bill was included in budget trailer bill SB 84 (Committee on Budget and Fiscal Review) Chapter 25, Statutes of 2015, but now applies to residential dwellings with up to 10 units.

LIFE AND DISABILITY

BILLS SIGNED INTO LAW

SB 426 (Leyva) Chapter 100, Statutes of 2015

Requires the death benefit payable under annuities contracts issued to persons 65 years of age or older to be at least equal to the annuity value or accumulations value without any surrender charges or penalties upon death.

SB 575 (Liu) Chapter 544, Statutes of 2015

Requires a long-term care insurer to provide an annual notification to the insured and, upon the insured's designation, at least one other individual that the insured has a vested contingent benefit or shortened period nonforfeiture benefit and the dollar value of the benefit.

SB 696 (Roth) Chapter 658, Statutes of 2015

Replaces the current method of calculating contract reserves for life insurance products with a new method, Principle-Based Reserving (PBR), for some types of life insurance policies; provides that PBR may not be used until certain conditions are satisfied; creates the Office of Principle-Based Reserving within the Department of Insurance; and establishes an annual assessment on life insurers to fund the department's activities related to implementing PBR.

SB 924 (Roth) Chapter 148, Statutes of 2016

Adds to the definition of "suitability information" when purchasing an annuity whether or not the consumer intends to apply for means-tested government benefits, including but not limited to, Medi-Cal or the veterans' aid and attendance benefit.

SB 1091 (Liu) Chapter 589, Statutes of 2016

Establishes minimum standards for alternate plans of care as provided in long-term care insurance policies and requires insurers to provide written notice when they deny a request for treatment for an alternate plan of care.

SB 1384 (Liu) Chapter 487, Statutes of 2016

Revises the certification standards and design options for long-term care insurance policies certified by the California Partnership for Long-term Care Program ("Partnership"); establishes, until January 1, 2019, a task force to consider further reforms; and permits policies that only cover home and community-based services to be offered through the Partnership.

AB 387 (McCarty) Chapter 691, Statutes of 2015

Extends the period of time allowed for the Insurance Commissioner (IC) to review disability insurance policies from 30 to 120 days, requires the IC to request that a multistate regulatory

support organization commission a study to examine California insurance standards with those developed by the Interstate Insurance Product Regulation Commission, and authorizes the IC to publish specified documents and information intended to streamline the review process for life and disability insurance forms.

AB 565 (Cooley) Chapter 440, Statutes of 2016

Revises the definition of “dependent” for group life insurance policies providing dependent coverage to include children up to the age of 26; authorizes an insurer to offer a waiver of premium benefit in a group life insurance policy that terminates at 65 years of age or older if the insured develops a total disability before age 60 and that excludes disabilities developed once the insured reaches age 60 or older; and requires an insurer to continue an in-force waiver of premium benefit for group policies issued prior to January 1, 2017, if requested by the master policyholder.

AB 1072 (Daly) Chapter 503, Statutes of 2015

Requires firefighters' and police officers' benefit and relief associations to file an actuarial opinion with the Insurance Commissioner by July 1, 2016, that meets specified standards.

AB 1131 (Dababneh) Chapter 638, Statutes of 2015

Authorizes, until January 1, 2021, life insurance carriers, agents and brokers to send documents electronically, including cancellation notices and documents sent by registered or certified mail, and conduct transactions related to life insurance and annuities electronically so long as the transaction conforms with standards established by the Uniform Electronic Transactions Act and additional standards established by the bill.

AB 1512 (Committee on Insurance) Chapter 95, Statutes of 2015

Clarifies the rules related to an insurer’s obligation to provide a policyholder with the opportunity to designate a third-party recipient to receive an additional lapse notice in connection with employer-provided individual disability income insurance.

AB 2366 (Dababneh) Chapter 573, Statutes of 2016

Limits the requirement that a long-term care insurance carrier must offer new benefits to holders of existing policies to only those new benefits that are material in nature and excludes minor changes including those made to elimination periods, benefit periods, and benefit amounts.

BILLS VETOED

AB 332 (Calderon)

Would have created a task force within the Department of Insurance to study the components necessary to design a statewide long-term care insurance program and submit a report to the

Insurance Commissioner, the Governor, and the Legislature by July 1, 2017.

BILLS NOT SENT TO THE GOVERNOR

AB 459 (Daly) Died on the Inactive File

Would have authorized an owner of record of a life insurance policy issued for delivery in California prior to January 1, 2010 and having a death benefit equal to or greater than one million dollars (\$1,000,000), who believes that the insurer may challenge the policy for lack of an insurable interest, to bring an action for declaratory relief no later than January 1, 2017 seeking a court order declaring the policy to have a valid insurable interest.

SB 935 (Roth) Held by Senate Insurance Committee

Would have required a person licensed to engage in life settlements to file a legal memorandum with the Department of Insurance if he or she intends to engage in life settlement transactions that are solicited or marketed as eligible to receive preferable tax treatment under Section 101(g) of the Internal Revenue Code.

WORKERS' COMPENSATION

AB 822 (Cooley) Chapter 85, Statutes of 2015

Provides that the laws governing the California Insurance Guarantee Association (CIGA) do not require a final determination of a claim in an insolvent insurer's liquidation proceeding before a covered claim may be submitted to CIGA, and establishes a one year statute of limitations for filing non-workers' compensation civil claims against CIGA or, if the written denial of the non-workers' compensation claim is based on a failure to exhaust other insurance available to pay the claim, six months after all other insurance has been exhausted, as specified.

AB 2710 (Cooley) Chapter 137, Statutes of 2016

Clarifies the California Insurance Guarantee Association's (CIGA) authority to pursue unpaid reimbursements owed by an employer pursuant to a workers' compensation deductible policy issued by an insolvent insurer; revises the methodology used by CIGA to calculate assessments charged to member insurers to pay the covered claims of insolvent member insurers and reasonable costs of adjusting claims to discharge its obligations; requires insurers to recoup the annual CIGA assessment through a surcharge on policies in the year following the CIGA assessment, rather than over a "reasonable length of time"; specifies the changes apply to assessments collected on or after January 1, 2017; and makes other technical and clarifying changes.

AB 2887 (Committee on Insurance) Chapter 206, Statutes of 2016

Repeals the sunset date on the statute authorizing the State Compensation Insurance Fund (State Fund) to provide limited workers' compensation insurance coverage for out-of-state employees of California employers, as specified.

BILLS VETOED

SB 1451 (Mendoza)

Would have allowed the State Compensation Insurance Fund board of directors to appoint 8 additional exempt senior management employees in the areas of underwriting, technology, claims, finance, and actuary, and provided that no more than 2 of those positions could be filled with licensed attorneys.

AB 1922 (Daly)

Would have codified a definition of ancillary agreement for purposes of a workers' compensation insurance policy; provided that the requirement to file ancillary agreements with the Insurance Commissioner (IC) prior to issuance does not apply to an ancillary agreement between an insurer and a California employer in conjunction with a workers' compensation policy or endorsement that contains a deductible obligation equal to or greater than \$250,000 if the employer meets three out of four specified criteria and the agreement does not change the benefits or coverages under the workers' compensation policy; provided that the exemption from filing ancillary agreements does not apply to agreements issued to a co-employment arrangement, as defined, or negotiated, managed or administered in whole or in part by a managing general agent, as specified; required the insurer to provide the IC a copy of an exempt ancillary agreement within 30 days of issuance; required the exempt ancillary agreement to include language stating that it has not been filed with the rating organization or filed with, or approved by the IC; required insurers that intend to use dispute resolution or arbitration agreements to resolve disputes arising in California out of an ancillary agreement or collateral and security agreement to disclose to the employer that choice of law and choice of venue or forum may be a jurisdiction other than California and that these terms are negotiable; applied only to ancillary agreements issued or renewed on or after January 1, 2017; and sunset the changes made by the bill on January 1, 2022.

BILLS NOT SENT TO THE GOVERNOR

SB 604 (Hall) Held in the Senate Insurance Committee

Would have included as a "covered claim," for the purposes of California Insurance Guarantee Association liability, a workers' compensation claim filed by an employee of a general employer that has entered into a contractual relationship with a special employer that is a self-insured governmental entity, when the workers' compensation insurer of the general employer becomes insolvent.

MISCELLANEOUS

BILLS SIGNED INTO LAW

AB 553 (Daly) Chapter 213, Statutes of 2015

Conforms California law to updated corporate governance models laws adopted by the National Association of Insurance Commissioners, including establishment of a Corporate Governance Annual Disclosure requirement, as specified; updates and clarifies existing law relating to the oversight of internationally active insurance groups, including explicitly authorizing the Insurance Commissioner to act as a group-wide supervisor for an internationally active insurance group, or accept another regulator as the group-wide supervisor, as specified.

AB 1515 (Committee on Insurance) Chapter 348, Statutes of 2015

Makes technical, noncontroversial, and clarifying changes to the Insurance Code.

AB 2591 (Dababneh) Chapter 617, Statutes of 2016

Consolidates and recasts the several standards applicable to insurance transactions made electronically, in addition to those provided by the Uniform Electronic Transactions Act (UETA), and applies those standards and UETA to additional insurance documents; authorizes, until January 1, 2021, the electronic transmission of specified property and casualty records, including notices of cancellation and documents that must be sent by registered and certified mail so long as the insurer can prove actual receipt; revises the standards that apply when an insurer must prove actual receipt applicable; eliminates the sunset date on the provisions authorizing the electronic transmission of most property and casualty insurance notices; and changes the date by which the Insurance Commissioner must submit reports regarding the electronic transaction of property and casualty insurance and life insurance to January 1, 2019.

AB 2884 (Committee on Insurance) Chapter 304, Statutes of 2016

Makes technical, noncontroversial, and clarifying changes to the Insurance Code.

BILLS NOT SENT TO THE GOVERNOR

SB 260 (Monning) Died on Assembly Inactive File

As heard by this committee and passed by the Senate, would have established standards and procedures applicable to electronic copies of reports or studies required under the Insurance Code that are submitted directly to legislative committees. The bill was subsequently amended in the Assembly to deem a county organized health system to be a health care service plan subject to the Knox-Keene Health Care Service Plan Act of 1975.

SB 585 (Leyva) Held in Assembly Insurance Committee

Would have created the Insurance Payment Intercept Program within the Department of Insurance for purposes of identifying insurance claims that are properly subject to withholding to satisfy a child support obligation, and would have required all insurers and self-insurers operating in the state to participate in the program, as specified.

INFORMATIONAL HEARINGS

March 11, 2015: “The State of the State Compensation Insurance Fund”

The State Compensation Insurance Fund ("State Fund") was created by statute in 1914 to act as a workers' compensation insurer for the state and to serve as the workers' compensation "insurer of last resort" in the private market. It also serves as a Third Party Administrator (TPA) for the State of California and other self-insured public and private employers. Although created by the Legislature, it is operated as a private non-profit enterprise, and is supposed to be “neither more nor less than self-supporting.”

The Senate Insurance Committee held an oversight hearing to assess the current operations of the State Fund that revisited findings from 2007 and 2008 that it had engaged in serious financial and operational improprieties, looked at the impact of subsequent and recent reforms, and assessed whether it is adequately managing its role as California's workers' compensation insurer of last resort. Participants included Insurance Commissioner Dave Jones and senior executives of the State Compensation Insurance Fund. Evidence was provided at the hearing that governance and other reforms have significantly improved operations, State Fund continues to address issues related to pricing and availability, and that it has a diminished role in the current market because of improved availability of private insurance.

March 25, 2015: “Does Uninsured and Underinsured Motorist Coverage Meet Consumer Needs?”

California law requires insurers that offer personal automobile coverage to offer uninsured and underinsured motorist coverage (“UM/UIM” coverage) intended to protect consumers from bodily injury-related damages caused by motorists that lack, or have too little, liability coverage. The law sets standards for UM/UIM coverage designed to keep premiums low, limit perverse incentives and fraudulent activity, and encourage greater financial responsibility on the part of insured; however, critics argue that some of these provisions are confusing, severely restrictive, and lead to unjust results.

The Senate Insurance Committee committee held an oversight hearing to examine whether California's UM/UIM coverage standards appropriately serves consumers. Participants included representatives from the Department of Insurance, consumer advocates, legal experts, and industry representatives. The committee considered testimony about the impact of California's standards, approaches taken by other states, and several reform proposals.

March 9, 2016: “Preparing for Global Warming and Drought: State of the Homeowners' Insurance Market”

For each year that California's severe drought continues, the chance of widespread and devastating fires grows. The purpose of this hearing was to examine the impact of climate change and drought on the availability and affordability of homeowners' insurance in California's expanding high and extreme wildfire risk areas. It looked at the increasing reluctance of the major insurers to offer insurance in these areas, the growing role of the surplus

lines market, the role of the FAIR Plan as the “insurer of last resort,” and discussed whether legislative or regulatory changes are needed to ensure communities can recover after a major disaster.

April 27, 2016: “Legislation, Regulation, and Litigation: Enforcement of the Unfair Practices Act”

Joint Hearing with the Senate Budget Subcommittee No. 4 on State Administration and General Government

The Unfair Practices Act (UPA) establishes a basic code conduct for insurers to ensure that policyholders and claimants are treated fairly. Over the last decade or so, the insurance industry and the Department of Insurance have engaged in several legal skirmishes over regulations adopted pursuant to UPA. Some of the recent decisions and rulings have raised concerns about the enforceability of those regulations, as well as costs. During the hearing, the committee and subcommittee members examined the history of UPA, litigation related to the Insurance Commissioner's rulemaking authority, and potential legislative solutions, and heard testimony from Insurance Commissioner Dave Jones.