

# **SENATE COMMITTEE ON INSURANCE**

**2011 – 2012 LEGISLATIVE SUMMARY**

**SENATOR RONALD CALDERON, Chair**

## **MEMBERS**

**SENATOR TED GAINES, Vice Chair**

**SENATOR JOEL ANDERSON**

**SENATOR ELLEN CORBETT**

**SENATOR LOU CORREA**

**SENATOR TED LIEU**

**SENATOR ALAN LOWENTHAL**

**SENATOR CURREN PRICE**

**SENATOR MARK WYLAND**

**PRINCIPAL CONSULTANT (2011)**

**Kenneth Cooley**

**CONSULTANT (2012)**

**Hugh Slayden**

**COMMITTEE ASSISTANT**

**Inez Taylor**

**State Capitol Room 2195, Sacramento**

**(916) 651-4110 phone**

**(916) 327-7093 fax**

**[comm.insurance@sen.ca.gov](mailto:comm.insurance@sen.ca.gov)**

# TABLE OF CONTENTS

<u>Subject</u>	<u>Page</u>
<b>LEGISLATIVE MEASURES</b>	
<b><i>AUTOMOTIVE</i></b>	
Bills Signed Into Law	3
Bills Vetoed	4
<b><i>WORKERS' COMPENSATION</i></b>	
Bills Signed Into Law	4
Bills Not Sent to the Governor	5
<b><i>DEPARTMENT OF INSURANCE/LICENSING</i></b>	
Bills Signed Into Law	5
Bills Not Sent to the Governor	6
<b><i>HOMEOWNERS/PROPERTY/ CALIFORNIA EARTHQUAKE AUTHORITY</i></b>	
Bills Signed Into Law	7
Bills Not Sent to the Governor	7
<b><i>LIFE AND DISABILITY</i></b>	
Bills Signed Into Law	7
Bills Vetoed	9
Bills Not Sent to the Governor	10
<b><i>MISCELLANEOUS</i></b>	
Bills Signed Into Law	10
Bills Vetoed	12
<b>INFORMATIONAL HEARINGS</b>	
<b><i>NOVEMBER 6, 2012, GENERAL ELECTION</i></b>	13

# LEGISLATIVE MEASURES

## AUTOMOTIVE

### **BILLS SIGNED INTO LAW**

#### **AB 125 (ASSEMBLY INSURANCE COMMITTEE) Chapter 24, Statutes of 2011**

Clarifies that a deductible required by an automobile insurance policy may be covered by guaranteed automobile protection (GAP) insurance and related contracts.

#### **AB 1024 (HUESO) Chapter 401, Statutes of 2011**

Authorizes insurance agents and brokers to sell low-cost auto insurance through an Internet website, and requires the California Automobile Assigned Risk Plan to create a website for referring consumers to certified agents or brokers for the purchase of low-cost automobile insurance. Additionally requires the Department of Motor Vehicles to update the insert regarding the low-cost automobile insurance program that is included in registration renewals to reflect the online program established by this bill.

#### **AB 1551 (TORRES) Chapter 555, Statutes of 2012**

As heard in this committee, would have exempted public safety officers from the duty to report automobile accidents to a private insurer if the accident occurs while an officer is driving his or her personal vehicle at the request or direction of the employer, in the course of the officer's duties. Also would have shifted liability for damages and injuries arising from those accidents to the public entity employers. The content of this bill, as heard by the committee, was subsequently placed into AB 2298. As enacted, relates to housing.

#### **AB 1708 (GATTO) Chapter 236, Statutes of 2012**

Clarifies existing law to allow motorists to present proof of insurance electronically to law enforcement agents upon request and authorizes auto insurance companies to provide, upon request of a policyholder, an electronic version of the proof of insurance card required by law.

#### **AB 2298 (SOLORIO) Chapter 823, Statutes of 2012**

Exempts public safety officers from the duty to report automobile accidents to a private insurer if the accident occurs while an officer is driving his or her personal vehicle at the request or direction of the employer, in the course of the officer's duties. Also shifts liability for damages and injuries arising from those accidents to the public entity employers. This bill is identical to the contents of AB 1551 as it was heard by the committee.

## **BILLS VETOED**

### **AB 1098 (CARTER)**

As heard in this committee, would have required the Department of Insurance to request, in writing, confirmation by an insurer that registered auto body repair shop was denied participation in the insurer's direct repair program. In its final form, would have reallocated vehicle license fee revenues.

## **WORKERS' COMPENSATION**

## **BILLS SIGNED INTO LAW**

### **SB 1513 (NEGRETE MCLEOD) Chapter 839, Statutes of 2012**

Expands, until January 1, 2025, the investment options available to the State Compensation Insurance Fund (SCIF) to include preferred and common equity and additional fixed asset investments, and allows SCIF to participate in the Federal Home Loan Bank of San Francisco.

### **AB 228 (FUENTES) Chapter 670, Statutes of 2011**

Grants limited authority to the State Compensation Insurance Fund (SCIF) to provide specified California employers workers' compensation coverage for their non-California employees as an accommodation alongside their California-based employees via a contractual arrangement between SCIF and an admitted insurer in another state.

### **AB 1263 (WILLIAMS) Chapter 53, Statutes of 2011**

Extends the former post-employment lobbying restrictions for State Compensation Insurance Fund (SCIF) members and exempt employees from one to two years and requires board approval of consulting contracts with former board members or exempt employees.

### **AB 1426 (SOLORIO) Chapter 559, Statutes of 2011**

As heard in this committee, would have deleted obsolete provisions of the Insurance Code. As enacted, reassigned the duties of the Court Administrator within the Division of Workers' Compensation (DWC) to the Workers' Compensation Appeals Board or Administrative Director of the DWC.

### **AB 1427 (SOLORIO) Chapter 629, Statutes of 2012**

As heard in this committee, would have repealed an obsolete requirement of the Bureau of State Audits to submit a report on workers' compensation. As enacted, relates to food facilities.

## **BILLS NOT SENT TO THE GOVERNOR**

### **SB 1406 (EMMERSON) Held in Senate Committee on Appropriations**

Would have required the State Compensation Insurance Fund (SCIF) board of directors to appoint six positions, including a claims medical officer, a chief actuarial officer, a chief of internal affairs and three senior management employees with specialized training and knowledge in infrastructure engineering, data management and systems engineering or applications.

## **DEPARTMENT OF INSURANCE/LICENSING**

### **BILLS SIGNED INTO LAW**

#### **SB 712 (COMMITTEE ON INSURANCE) Chapter 426, Statutes of 2011**

Requires every admitted property and casualty insurer, unless exempt, to annually submit a Statement of Actuarial Opinion with supporting documents and an Actuarial Opinion Summary, as specified, to support the continuing certification of the Department of Insurance by the National Association of Insurance Commissioners. Also extends, from January 1, 2013 to January 1, 2023, the time for bonds to be issued on behalf of the California Insurance Guarantee Association to pay the claims of insolvent workers' compensation insurers.

#### **SB 1170 (LENO) Chapter 653, Statutes of 2012**

Restricts marketing strategies used by insurance agents on persons over the age of 65, requires certain disclosures when advertising or marketing the provision of assistance to veterans to obtain veterans benefits from the U.S. Department of Veterans Affairs, and prohibits insurance agents from delivering legal documents, including living trust agreements, as a pretext for selling insurance products.

#### **SB 1184 (CORBETT) Chapter 222, Statutes of 2012**

Prohibits an insurance agent from providing assistance to a senior in obtaining veterans benefits through government programs, unless the agent maintains procedural safeguards designed to ensure that the agent or broker transacting insurance has no direct financial incentive to refer the policyholder or purchaser to any veterans benefits program offered through the government.

#### **SB 1216 (LOWENTHAL) Chapter 277, Statutes of 2012**

Conforms California law with federal law and the National Association of Insurance Commissioners (NAIC) Credit for Reinsurance Model Law.

**SB 1448 (R. CALDERON) Chapter 282, Statutes of 2012**

Conforms California law to the revised National Association of Insurance Commissioners (NAIC) Insurance Company Holding System Regulatory Act.

**AB 1416 (ASSEMBLY INSURANCE COMMITTEE) Chapter 411, Statutes of 2011**

An insurance omnibus bill, updates the Insurance Code to make consistent use of terminology, delete erroneous cross-references, and makes other non-controversial code clean-up amendments.

**AB 2138 (BLUMENFIELD) Chapter 444, Statutes of 2012**

Grants the Insurance Commissioner the authority to raise the special purpose assessment that funds investigations and prosecution of fraudulent disability insurance claims up to twenty cents annually per insured.

**AB 2160 (BLUMENFIELD) Chapter 479, Statutes of 2012**

Deems an investment by a domestic insurer in specified companies as a nonadmitted asset for the purposes of meeting the insurer's risk-based capital requirements if the targeted investment activities involve companies included on the list of companies prepared by the Department of General Services pursuant to the Iran Contracting Act of 2010.

**AB 2406 (SOLORIO) Chapter 100, Statutes of 2012**

Requires the Insurance Commissioner to publish on the Department of Insurance website all requests for a finding of eligibility to seek compensation, and all findings of eligibility to be compensated, with respect to parties intervening in rate change request proceedings.

**BILLS NOT SENT TO THE GOVERNOR**

**SB 169 (GAINES) Returned to Senate Desk without Action**

Would have deleted an obsolete statutory restriction applied to revenues arising from insurer examinations conducted by the Department of Insurance during the 1996-1997 fiscal year.

**SB 631 (EVANS) Returned to Senate Desk without Action**

Would have conferred upon the Insurance Commissioner new authority to order restitution for violations of the Insurance Code independent of existing statutory provisions in addition to penalties and remedies already available.

**SB 714 (COMMITTEE ON INSURANCE) Returned to Senate Desk without Action**

Would have updated California’s Insurance Holding Company System Regulatory Act consistent with recent revisions to the underlying Model Act by the National Association of Insurance Commissioners.

**HOMEOWNERS/PROPERTY/  
CALIFORNIA EARTHQUAKE AUTHORITY**

**BILLS SIGNED INTO LAW**

**SB 596 (PRICE) Chapter 240, Statutes of 2011**

Consolidates the notice of the California Earthquake Authority coverage with the notice of available discounts for earthquake coverage into a single mailing, and revises the contents of the insurance claim related written notice.

**SB 1450 (R. CALDERON) Chapter 105, Statutes of 2012**

Until January 1, 2018, eliminates requirements that limit the percentage of coverage a mortgage guaranty insurer may provide for the class of insurance that insures against financial loss by reason of nonpayment of principal, interest, and other sums under any evidence of indebtedness secured by a mortgage, deed of trust, or other instrument constituting a first lien or charge on a residential building or a condominium unit or buildings designed for occupancy by not more than four families.

**BILLS NOT SENT TO THE GOVERNOR**

**SB 1262 (VARGAS) Returned to Senate Desk without Action**

Would have specified that earthquake insurance policies providing alternative coverage options not meeting the minimum coverage required by law may be offered so long as an offer is made that includes at least one coverage that meets the minimum coverage requirements.

**LIFE AND DISABILITY**

**BILLS SIGNED INTO LAW**

**SB 220 (PRICE) Chapter 126, Statutes of 2011**

Broadens eligibility for group life insurance under California law by increasing the dependent child eligibility age to “until 26 years of age” (so group life insurance can be offered on terms

which are comparable to those made for dependent children under the federal Patient Protection and Affordable Care Act (PPACA) of 2010). Also provides for coverage to continue for a child 26 years of age or older who is both incapable of self-sustaining employment by reason of mental retardation or physical handicap.

**SB 599 (KEHOE) Chapter 423, Statutes of 2011**

Requires life insurers to provide beneficiaries with settlement options on the life insurance benefit claim form. Also, authorizes a retained asset account (RAA) to be the default method of settlement payment provided that the claim form provides a prominent disclosure, as specified, that the RAA will be the default payment mechanism if no other option is selected by the beneficiary, and requires that a life insurer who recommends to a policyholder or beneficiary that the beneficiary receive life insurance proceeds in the form of a RAA or any arrangement other than a lump-sum payment provide in writing to the policyholder or beneficiary the terms of each settlement option. Contingent upon successful enactment of SB 713 (R. Calderon), Chapter 130, Statutes of 2011.

**SB 615 (R. CALDERON) Chapter 266, Statutes of 2012**

As heard by the committee, would have required all sales of health coverage, whether subject to the Insurance Code or the Health and Safety Code Knox-Keene Act, to be conducted by licensed insurance agents, subject to Department of Insurance licensing, education and disciplinary authority, as of July 1, 2012. The final version prohibits multiple employer welfare arrangements (MEWAs) from offering, marketing, representing, or selling any product, contract, or discount arrangement as a minimum essential coverage or as compliant with essential health benefits requirements as defined by the federal Patient Protection and Affordable Care Act (PPACA) of 2010), unless it meets the applicable requirements under the ACA.

**SB 621 (R. CALDERON) Chapter 425, Statutes of 2011**

Prohibits the Insurance Commissioner from approving any disability insurance policy if it includes 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.

**SB 713 (COMMITTEE ON INSURANCE) Chapter 130, Statutes of 2011**

Enacts Life Insurance Proceeds Disclosure Act of 2011 and requires life insurers to provide disclosures regarding death settlement payment options, including retained asset accounts, to policyholders and beneficiaries, as specified. Also requires the insurer to provide to the beneficiary a supplemental contract disclosing the rights of the beneficiary and obligations of the insurer if the beneficiary chooses death settlement payment to be placed into a retained asset account.



**SB 1449 (R. CALDERON) Chapter 567, Statutes of 2012**

Establishes standards for approval of waiver of premium features in life insurance policies triggered by disability and waiver of surrender charge features in life insurance policies and annuities triggered by specified medical conditions, disability, and unemployment.

**AB 689 (BLUMENFIELD AND SEN. R. CALDERON) Chapter 295, Statutes of 2011**

Requires adoption of more stringent procedures to assess suitability of proposed annuity sales for customers, including requiring insurers to establish a system to supervise the suitability of annuity sale recommendations. Also, establishes mandatory standards, procedures and processes, for insurers and producers, for assessing suitability and monitoring annuity sales recommendations made to consumers so that the insurance needs and financial objectives of consumers at the time of the transaction are appropriately addressed.

**AB 999 (YAMADA) Chapter 627, Statutes of 2012**

Requires an insurer that issues long-term care insurance to post specified information its website and to provide specimen policy forms upon request. Modifies approval standards and requirements for applications by insurers to adjust long-term care insurance rates.

**AB 1425 (ASSEMBLY INSURANCE COMMITTEE) Chapter 414, Statutes of 2011**

Provides for standardization of the adoption of future regulations implementing California's life settlement law under standard, rather than emergency, Administrative Procedures Act procedures, repeals an obsolete reporting requirement by the Insurance Commissioner regarding credit insurance agents, and repeals the requirement to adopt emergency regulations in connection with implementing the low-cost automobile insurance program.

**AB 1747 (FEUER) Chapter 315, Statutes of 2012**

Requires life insurers to permit a policy owner to designate at least one other person to receive notice of a missed payment. Establishes a minimum 60 day grace period and prohibits termination of an individual life insurance policy until a notice of missed payments has been mailed to all required recipients at least 30 days prior to the effective date of termination.

**BILLS VETOED**

**SB 715 (COMMITTEE ON INSURANCE)**

Would have required adoption of more stringent procedures to assess suitability of proposed annuity sales for customers, including requiring insurers to establish a system to supervise the suitability of annuity sale recommendations. Would have established mandatory standards, procedures and processes, for insurers and producers, for assessing suitability and monitoring annuity sales recommendations made to consumers so that the insurance needs and financial objectives of consumers at the time of the transaction are appropriately addressed. This bill was

substantively identical to AB 689 (Blumenfield and Sen. R. Calderon).

## **BILLS NOT SENT TO THE GOVERNOR**

### **SB 711 (RUBIO) Held in Assembly Committee on Natural Resources**

As heard by the committee, would have codified the uncodified “prospective-only application” provision of SB 1408 of 2010 (Chapter 334 Statutes of 2010) (updated California’s Life and Health Insurance Guaranty Association law to reflect National Association of Insurance Commissioners (NAIC) model act revisions) and delete an erroneous cross-reference. As amended, relates to public resources.

### **SB 1212 (R. CALDERON) Held in Assembly Committee on Judiciary**

As heard by the committee, would have excluded “stranger-originated life insurance” from a policyholder’s statutory right to make a policy payable to any beneficiary. In its final form, would have authorized insurers to send specified insurance documents in electronic format.

### **SB 1438 (ALQUIST) Held in Senate Committee on Appropriations**

Would have required the Insurance Commissioner to convene a task force to study the components necessary to design a statewide long-term care insurance program and submit a report the Commissioner, the Governor, and the Legislature by July 1, 2013.

### **SB 1451 (R. CALDERON) Held in Assembly Committee on Insurance**

Would have exempted policy loans from existing law that prohibits a fraternal benefit society’s officers, directors, agents, employees from loaning, borrowing, or making arrangements for the loan of funds of the society. Also, would have allowed a fraternal benefit society to lend funds to an agent for the specific purpose of starting a business that sells the society’s insurance products.

## **MISCELLANEOUS**

## **BILLS SIGNED INTO LAW**

### **SB 131 (GAINES) Chapter 302, Statutes of 2011**

Amends California law relating to surplus lines (as substantially modified by Chapter 83, Statutes of 2011, effective July 15, 2011) to further conform California law to changes made by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 and to clarify administration of that law. Revises terminology and clarifies the allocation of Department of Insurance reporting requirements under the surplus lines law when multiple brokers are involved in a single surplus lines transaction by permitting delegation of the responsibility by mutual

agreement among the brokers as a recognized option.

**AB 53 (SOLORIO) Chapter 414, Statutes of 2012**

Requires major California insurers, until January 1, 2019, to submit an annual report to the Insurance Commissioner regarding the implementation of their efforts to increase procurement from women, minority, and disabled veteran business enterprises.

**AB 315 (SOLORIO) Chapter 83, Statutes of 2011**

Conforms California law applicable to surplus line insurance to mandatory changes included in the federal Nonadmitted and Reinsurance Reform Act provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. The urgency clause permitted the changes to take effect in time for a deadline established in the Dodd Frank Act.

**AB 480 (SOLORIO) Chapter 713, Statutes of 2012**

Clarifies that a captive insurer meeting the statutory criteria of the Public Resources Code as a postclosure financial assurance mechanism is recognized as valid insurance under California's Insurance Code. Until January 1, 2018, also adds as a requirement for approval of a solid waste facility operator meeting its financial assurance obligations by establishing an insurance carrier that the insurance mechanism not provide in excess of 50% of the financial assurance obligation that the solid waste facility operator is required to meet in the state.

**AB 690 (SOLORIO) Chapter 165, Statutes of 2011**

Revises and recasts the laws governing the sale of insurance in connection with portable electronic devices and their accessories and associated services to reflect the changing character of these products and this marketplace.

**AB 793 (ENG) Chapter 223, Statutes of 2011**

Prohibits an insurance broker or agent from participating in or employing any party that participates in the origination of a reverse mortgage, except as specified. Concurrent with its adoption on August 18, 2011, a letter addressing the Author's intent with respect to this measure was inserted in the Senate Journal for that date.

**AB 1846 (GORDON) Chapter 859, Statutes of 2012**

Creates a licensing framework for consumer operated and oriented health (CO-OP) plans that can offer health coverage through the new California Health Benefit Exchange.

**AB 2084 (SOLORIO) Chapter 321, Statutes of 2012**

Expands the classes of entities that may be covered under a policy for blanket insurance offered by California admitted insurers and grants the Insurance Commissioner the authority to add

additional classes by issuing a letter order and without requiring compliance with the Administrative Procedure Act.

**AB 2301 (COMMITTEE ON INSURANCE) Chapter 57, Statutes of 2012**

Provides that a claim against an insolvent insurer that is domiciled in another state may be covered by the California Insurance Guarantee Association (CIGA) if the claim is presented to the liquidator in the state of domicile.

**AB 2303 (COMMITTEE ON INSURANCE) Chapter 786, Statutes of 2012**

Insurance omnibus bill, conforms California insurance law to federal law, makes technical changes to the state Insurance Code, and makes specified licensing changes.

**AB 2354 (SOLORIO) Chapter 257, Statutes of 2012**

Updates the definition of travel insurance and shifts the licensing and regulatory compliance responsibilities from travel retailers to limited lines travel insurance agents.

**BILLS VETOED**

**SB 590 (R. CALDERON)**

Would have established new rights, including a 60-day right of cancellation for senior buyers of pre-need burial life insurance policies, in lieu of an existing 24 hour advance written notice.

# INFORMATIONAL HEARINGS

## November 6, 2012, General Election

**PROPOSITION 33.** 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 33, that appeared on California's November 6, 2012, general election ballot and proposed to revise Proposition 103, enacted by California voters in 1988.

The official title and summary of Proposition 33 reads as follows:

### AUTO INSURANCE COMPANIES. PRICES BASED ON DRIVER'S HISTORY OF INSURANCE COVERAGE.

- Changes current law to allow insurance companies to set prices based on whether the driver previously carried auto insurance with any insurance company.
- Allows insurance companies to give proportional discounts to drivers with some history of prior insurance coverage.
- Will allow insurance companies to increase cost of insurance to drivers who have not maintained continuous coverage.
- Treats drivers with lapse as continuously covered if lapse is due to military service or loss of employment, or if lapse is less than 90 days.

Those testifying on the matter included subject matter experts from the Legislative Analyst's Office, proponents of the measure (American Agents Alliance and an actuary from Pinnacle Actuaries) and opponents of the measure (Consumer Watchdog, Consumer Federation of California, and Public Advocates). Members of the public and other interested parties were also provided an opportunity to state support or opposition of the measure.