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April 28, 1986

No. 407

BULLETIN TO ALL MEMBERS:

RE: 1986 Legislative Session

Numerous insurance related Bills are pending before the California Legislature. Many of the proposed laws respond to hard market symptoms of availability, affordability, withdrawal, mid-term cancellation and non-renewal. While these symptoms become acute during hard marketing periods, they are generally taken to be cyclical and temporary. However, some of these Bills, if passed into law, will have a permanent and detrimental effect on the surplus line market in California.

We have enclosed copies of the Legislative Counsel's Digests of some of the more important pending legislation. Of particular note is Willie Brown's AB 4407 which (among other things) would require both admitted and nonadmitted insurers to offer "commercial liability insurance [and reinsurance] designated by the Commissioner as not generally available at affordable rates in this state." This Bill would prohibit surplus line brokers from placing any insurance with non-complying nonadmitted insurers, and it is calendared to be heard by the Assembly Finance and Insurance Committee at 9:00 a.m. on May 6, 1986.

Without doubt, AB 4407 would result in a mass exodus of nonadmitted capacity from California leaving us with a permanently hard market and a seriously impaired surplus line industry.

We urge you to familiarize yourself with enclosed legislation, and to take an active interest in opposing it by immediately writing to your state senator and assemblyman and also to the members of the Senate Insurance, Claims and Corporations Committee and Assembly Finance and Insurance Committee. You will find the names of the committee members on an attached sheet. TIME IS OF THE ESSENCE!


A. D. Freeman, Jr.
Manager

ADF:cn

The following are the Legislative Counsel's Digest of some of the more important pending insurance legislation in 1986. These bills may be amended at a later date:

ASSEMBLY BILLS

AB 4407 Existing law generally regulates the sale of insurance in this state, authorizes the Insurance Commissioner to suspend the certificate of authority for an insurer, following a hearing, for specified practices, and authorizes the commissioner to permit the holder of a certificate of authority to pay a money penalty in lieu of the suspension of that certificate.

This bill would require an admitted insurer to offer in this state every category of direct commercial liability insurance or reinsurance for commercial liability insurance offered by an insurer anywhere in the United States. It would require an admitted insurer who offers any category of direct insurance for commercial liability in this state to offer direct insurance for any other related category of commercial liability insurance designated by the commissioner as not generally available at affordable rates in this state.

The bill would require an admitted insurer who offers reinsurance for any category of commercial liability insurance in this state to offer reinsurance for any other related category of commercial liability insurance designated by the commissioner. It would prohibit an admitted insurer from ceding reinsurance to any reinsurer who does not offer in the state every category of reinsurance for commercial liability that the reinsurer offers anywhere in the United States, or who does not offer reinsurance for any other related category of reinsurance for commercial liability designated by the commissioner. The bill would provide that no credit in accounting and financial statements shall be allowed on account of reinsurance ceded to any reinsurer who is not in compliance with these requirements. The bill would also authorize the commissioner to exempt certain insurers from these requirements.

The bill would also prohibit a nonadmitted foreign, or alien insurer from offering any direct surplus line insurance or reinsurance to an admitted insurer or to a person located or resident in this state for commercial liability for risks located or resident in this state unless the insurer complies with the above provisions. The bill would prohibit a surplus line broker from placing insurance with any nonadmitted insurer unless the insurer complies with the above requirements.

The bill would make a violation of the above provisions grounds for suspension of a certificate of authority of an insurer, and exempt proceedings held for the suspension of a certificate of authority for such a violation from the provisions authorizing the commissioner to permit a certificate holder to pay a money penalty in lieu of the suspension of the certificate.

AB 2165 (1) Existing law, with specified exceptions, regulates cancellation and nonrenewal of insurance covering loss or damage to specified personal property of residents of that type of property who are natural persons, or covering liability of natural persons for personal injury or property damage, other than liability policies

primarily covering conduct of a commercial or industrial enterprise.

This bill would extend the scope of the above provisions to include liability insurance insuring persons other than natural persons, such as corporations, and to delete the exclusion of policies primarily covering conduct of commercial or industrial enterprises.

(2) Existing law, with specified exceptions, prohibits certain discriminatory practices by insurers issuing insurance covering loss or damage to residential real property, covering specified personal property of residents of residential real property who are natural persons, or covering liability of natural persons for personal injury or property damage.

This bill would expand the scope of the above provisions to include liability insurance insuring persons who are not natural persons, such as corporations.

AB 3281

Under existing law there is an assigned risk plan for automobile insurance, and the California FAIR plan for property insurance and crime insurance, to provide insurance or the placement of insurance for persons otherwise unable to obtain that type of insurance.

This bill would establish the California Joint Underwriting Association to provide liability insurance coverage for birthing personnel and facilities, as described, which are unable to obtain insurance through ordinary methods. All insurers admitted to transact insurance, other than those that transact only life insurance, worker's compensation insurance, or types of insurance for which another joint underwriting association, placement facility, or assigned risk plan is provided by California statute, would be required to be members.

The bill would state legislative findings and declarations, and would require the Insurance Commissioner to undertake specified studies and actions.

AB 3400

Existing law makes no provision for the self-insuring of local agencies for liability purposes.

This bill would create in state government the Local Government Self-Insurance Financing Authority, with specified membership duties and powers, to establish a self-insurance program for local agencies.

AB 3476

Existing law provides that rates for insurance, except certain types of insurance, shall not be excessive, inadequate, or unfairly discriminatory.

This bill would provide that an insurer may not increase the premium charged for a policy of property, casualty, or automobile insurance by more than 50% without the prior approval of the Insurance Commissioner based upon the necessity to adequately cover the risk. The bill would require the commissioner to adopt regulations with respect to the examination of proposed premium increases; and would set forth a procedure for the commissioner's action upon applications for premium increases.

AB 3531 Existing law regulates the cancellation and failure to renew policies of property and casualty insurance. It does not prohibit premium rate increases or cancellation of policies.

This bill would, with respect to that type of insurance and disability insurance, prohibit a premium rate increase during any consecutive 12 months of the period rate the policy is continuously in effect. It would also prohibit policy cancellation if the policy has been in effect for at least 60 days.

AB 3554 (1) Under existing law, there are no provisions providing for the creation of a State Liability Insurance Fund offering liability insurance for local governments.

This bill would establish the State Liability Insurance Fund to be administered by a board of directors appointed in a prescribed manner for purposes of establishing a liability insurance program for local public entities, as defined. All moneys in the fund would be continuously appropriated for purposes of the bill. The fund would be authorized to provide liability insurance for local public entities for liability in excess of \$1,000,000, subject to a maximum limit of \$25,000,000. The bill would also authorize liability insurance to be made available, on a pilot project basis, to private legal entities, as specified.

This bill would prescribe the powers and duties of the Board of Directors of the State Liability Insurance Fund, and would authorize the board of directors to appoint a manager of the fund. It would authorize the fund to issue revenue bonds. This bill would require the board of directors to cause to be devised a classification rating plan to provide a premium base for the liability insurance program, and would authorize insurance contracts or policies of the State Liability Insurance Fund to be issued, as prescribed.

The bill would appropriate \$500,000 to the Controller for transfer to the fund from the General Fund for startup costs, repayment of which would be required by January 1, 1988.

AB 3875 (1) Existing law, with respect to certain types of personal insurance covering specified residential property loss or damage and noncommercial liability, specifically regulates policy cancellation and renewal.

This bill, would with respect to commercial policies providing coverage of real and personal property insurance, legal liability, and errors and omissions liability with specified exceptions, prohibit an insurer from canceling those policies after they have been in effect for 60 days unless the cancellation is based upon certain enumerated factors. The bill would authorize the Insurance Commissioner, after a public hearing, to permit an insurer to cancel, increase the premiums for, or change the limits or conditions of coverage of, such policies of insurance under specified circumstances.

(2) Existing law prohibits an insurer from failing to renew those policies of personal insurance specified in (1), unless the insurer has provided a notice of an intention to do so at least 45 days in advance at the end of the policy period of its intention not to renew or to condition its renewal upon a reduction of limits

or elimination of coverages.

This bill would as to the commercial policies covered by this bill require an insurer to notify the insured, at least 30 days prior to the end of the policy period of the intent not to renew, to reduce limits, to eliminate coverage, or to increase premiums more than 25%. If such notice is not given, the policy of insurance would continue unchanged, as specified.

AB 4089 Existing law defines certain acts and practices by insurers as unfair methods of competition and unfair and deceptive acts.

This bill would include within those enumerated acts with respect to commercial insurance, the following, unless there has been a material change in the activities of the insured: midterm policy cancellation, midterm premium increase, issuing a refusal to renew notice which does not provide sufficient time to secure alternate coverage, and the termination of a contact with an agent or broker without reasonable notice.

AB 4257 Existing law makes no provision for insurance consumer rights with respect to automobile and property and casualty insurance.

This bill would require an insurer to send an annual notice regarding rating classifications and rates. The bill also would require an insurer to provide an applicant or an insured with a private informal managerial-level conference as to improper insurance denial or an incorrect premium rate, and upon failure of the conference, would require the Insurance Commissioner to resolve the dispute.

AB 4258 Existing law does not require the Insurance Commissioner to approve the issuance or amendment of every insurance contract.

This bill would so require. It would require insurers and rating organizations to file contracts and amendments with the commissioner. The bill would specify the basis for contract or amendment approval as that which is in the public interest.

SENATE BILLS

SB 1580 Existing law provides, with respect to personal coverage of residential real property and certain personal property, that unless a property and casualty insurer, at least 45 days in advance of the end of the policy period, mails or delivers to the named insured at the address shown in the policy notice of its intention not to renew the policy or to condition its renewal upon reduction of limits or elimination of coverages, the insurer shall not fail to renew the policy upon payment of the premium due on the effective date of the renewal, as specified.

This bill would enact the Insurance Consumer Act which would do all of the following:

(1) Require property and casualty insurers to give a 60-day notice of nonrenewal

or reduction of policy coverage with respect to both personal and commercial coverage of specified property.

(2) Prohibit an insurer from canceling specified commercial insurance or a renewal thereof more than 60 days following the effective date of the original policy or after the effective date of the renewal except for specified cause, and include as an unfair method of competition and an unfair and deceptive act, the canceling (except for specified cause) or the increasing of premiums at midterm with respect to certain property and casualty insurance.

SB 1581 Existing law does not authorize the Insurance Commissioner to establish insurance rate appeal panels for the purpose of hearing policyholder complaints regarding excessive rates that are not actuarially verifiable.

This bill would authorize the commissioner to establish 10 rate appeal panels to be designated by geographic region. It would prohibit a person from being a member of a panel if he or she receives more than 10% of his or her income from, or as, a licensee of the Insurance Code.

The bill would also require the Auditor General to undertake a study, and report to the Legislature on or before July 1, 1987, as to the feasibility of a rate appeal panel making a binding decision subject to invalidation by the commissioner.

SB 1590 Existing law does not require the Insurance Commissioner to approve the withdrawal of any line of coverage by a property and casualty insurer.

This bill would do so. Specifically, it would prohibit a property and casualty insurer from withdrawing any line of coverage of specified property without prior notification to the commissioner. It would also require the commissioner to implement marketing assistance programs whenever there is a general unavailability of any line of property or casualty insurance.

SB 2269 Existing law authorizes a surplus line broker to issue certificates evidencing the placement of insurance with a nonadmitted insurer, as specified.

This bill would require that those certificates contain a statement of the policy's limits by coverage provided.

SB 2333 Under existing law, there are no provisions providing for the creation of a Professional Malpractice Liability Insurance Fund offering liability insurance for persons licensed by boards within the Department of Consumer Affairs.

This bill would establish the Profession Malpractice Liability Insurance Fund to be administered by the Director of Consumer Affairs for purposes of establishing a liability insurance program for persons licensed by bodies and boards within the Department of Consumer Affairs. The fund would be the exclusive source of liability insurance for those persons.

This bill would prescribe the powers and duties of the fund and would authorize the Director of Consumer Affairs to appoint a manager of the fund. This bill would require the director to cause to be devised a classification rating plan to provide a premium base for the liability insurance program, and would authorize insurance contracts or policies to be issued, as prescribed.

This bill would require each person licensed by a body or board within the Department of Consumer Affairs to be insured by the fund, as specified.

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