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Insurance

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Insurance

Insurance; automobile insurance—collision coverage

Insurance Code §11580.07 (new).

AB 30 (Z'berg); STATS 1973, Ch 221

Section 11580.07 has been added to the Insurance Code to provide that an insurance agent or broker [CAL. INS. CODE ch. 5 (commencing with §16211)] cannot require an insured to purchase or maintain automobile collision coverage as a condition to issuance or maintenance of comprehensive coverage. Two exceptions to this are: (1) when such coverage is required by a conditional sales vendor; or (2) when the insurance policy requires the purchase of both coverages. This section applies to policies issued or renewed after the effective date of this section.

Insurance; automobile liability insurance for commercial drivers

Insurance Code Chapter 10.2 (commencing with §670) (new).

AB 811 (Deddeh); STATS 1973, Ch 788

Section 670 has been added to the Insurance Code to provide that an insurer cannot cancel or refuse to renew a motor vehicle liability policy covering a driver hired to drive by a commercial business, or execute an agreement of noncoverage as to a designated driver, because such driver has been convicted of traffic violations while operating a vehicle other than that which he was hired to drive. This section does not apply to drivers convicted of: (1) homicide or assault arising from operation of a private passenger automobile; (2) a second or any subsequent violation of Section 23102 of the Vehicle Code (driving under the influence of intoxicating liquor or combined influence of liquor and drugs), while driving a private passenger vehicle, within seven years of a prior violation thereof; or (3) a violation, while operating a private passenger automobile, of Vehicle Code Section 14061(a) (driving with license suspended or revoked for certain offenses), 14061.1(a) (driving with knowledge of a license suspended or re-

voked for reasons other than those in §14061(a)), 20001 (failing to stop after involvement in an accident resulting in injury or death), 20002 (failure to stop and leave name and address after involvement in an accident causing property damage), 20008(a) (failure to make a written report within 24 hours after accident resulting in injury or death), 23101 (driving while under the influence of intoxicating liquor or drugs), 23104 (reckless driving resulting in bodily injury), 23105 (driving while under influence of drugs), or 23106 (driving while under influence of drugs and causing bodily injury).

See Generally:

- 1) CAL. INS. CODE §§10273, 10273.3, 10273.5.

Insurance; discriminatory practices

Insurance Code Chapter 12 (commencing with §679.70) (new).
AB 200 (Deddeh); STATS 1973, Ch 772

Chapter 12 (commencing with §679.70) has been added to the Insurance Code to prohibit discriminatory practices by certain types of insurers. Section 679.70 specifies that the provisions of Chapter 12 are applicable to policies of insurance, other than automobile insurance and workmen's compensation insurance, which insure against: (1) loss of or damage to real property used predominately for residential purposes; (2) loss of or damage to personal property in which persons residing in such real property as described above have an insurable interest; or (3) legal liability of a person or persons for loss of or damage to property, or injury to persons.

Section 679.71 provides that an insurer issuing any policy of insurance covered by Section 679.70 shall not use marital status, sex, race, color, religion, national origin, or ancestry as a basis for discrimination in accepting, issuing, or canceling such insurance. This section does provide, however, that marital status may constitute a condition or risk for which a higher rate, premium, or charge may be required. Section 679.72 provides that no application for insurance or insurance investigation reports for policies covered by Section 679.70 shall carry any identification of, or requirement for, the applicant's race, color, religion, national origin, or ancestry. Section 679.73 provides that a question regarding the birthplace of the applicant may be asked if it will be used only to identify the applicant and not to discriminate against the applicant. These sections apply only to policies issued or renewed after the effective date of Chapter 772.

See Generally:

- 1) CAL. INS. CODE §§10140, 10141 (prohibit discrimination in life and disability insurance).
- 2) CAL. INS. CODE §§11628, 11629.5 (prohibit discrimination in automobile insurance).
- 3) Kellitt, *The Expansion of Equality*, 37 So. CAL. L. REV. 400 (1964).

Insurance; insurance solicitation by a lender

Insurance Code §770.1 (new); §771 (amended).

AB 640 (Papan); STATS 1973, Ch 982

Support: Western Association of Insurance Brokers

Section 770.1 has been added to the Insurance Code to provide that any person making a loan of money secured by real property may be prohibited from making the information contained in a fire or casualty insurance policy available to anyone for the purpose of soliciting such insurance. This can be accomplished by the borrower filing a statement with the lender prohibiting such conduct. The statement is effective until superseded or revoked by the borrower and may be included in the borrower's letter of authorization designating an insurance agent or broker. The provisions of this section do not apply to industrial loan companies.

COMMENT

Lending institutions which finance real property generally require fire and casualty insurance as a condition to financing. Some institutions have been forcing consumers to comply with particular insurance requirements and then channeling the policy through an insurance agency which has been set up by the lender explicitly for this purpose. "Though a lender should have the right to be assured that fire or casualty coverage is adequate, he does not have the right to use such information to solicit the sale of insurance policies" [Assemblyman Louis J. Papan, Press Release #37, June 12, 1973]. New York has apparently encountered a similar problem and has enacted legislation which prohibits any licensed insurance agent or broker who is controlled, directly or indirectly, by a bank holding company from negotiating any policy of insurance covering real or personal property which is the subject matter, or security for, a loan or extension of credit made by the bank holding company or its subsidiaries [N.Y. INS. LAW §7(b) (McKinney Supp. 1972)]. In comparing the New York and California statutes, it is clear that the California statute does not afford as much protection to the consumer. The main difficulty with the

California statute is that consumers as a whole will probably not have notice of the protection conferred by Section 770.1. Therefore, in cases where the borrower has not filed the statement, a California lending institution which controls an insurance agency will not be prevented from disclosing information contained in a policy to its agency, thereby giving that agency an unfair advantage over other agencies in soliciting insurance coverage from the consumer.

See Generally:

- 1) CAL. INS. CODE art. 5.5 (commencing with §770) (insurance in connection with sales and loans).
- 2) 3 PAC. L.J., REVIEW OF SELECTED 1971 CALIFORNIA LEGISLATION 351 (1972) (discussion of §771).
- 3) 4 PAC. L.J., REVIEW OF SELECTED 1972 CALIFORNIA LEGISLATION 532 (1973) (discussion of §770.3).

**Insurance; life insurance—"look-see" period
for individual policies**

Insurance Code §10127 (new).

AB 721 (Deddeh); STATS 1973, Ch 679

Support: Insurance Commissioner

Section 10127 has been added to the Insurance Code to provide that every individual life insurance policy with a face value of less than \$10,000 must have printed on it or attached to it a notice stating that any time within ten days after receipt of the policy, the owner may return it for cancellation by delivering or mailing it to the insurer or issuing agent. Such delivery or mailing shall void the policy from the beginning, and all premiums and policy fees paid shall be refunded. This section does not apply to individual life insurance policies issued in connection with a credit transaction or issued under a contractual policy change or conversion privilege contained in a policy. Section 10127 applies only to policies issued after July 1, 1974.

See Generally:

- 1) CAL. INS. CODE §10276 (similar provision for individual disability policies).
- 2) CAL. CIV. CODE §1689.6 (similar provision regarding home solicitation contracts).

Insurance; mental or nervous disorder coverage

Government Code §12532.4 (new); Insurance Code §§10125, 10127, 11512.5 (new).

AB 49 (Lanterman); STATS 1973, Ch 524

Section 12532.4 has been added to the Government Code and Sections 10125, 10127, and 11512.5 have been added to the Insurance

Code to require that certain insurers must offer coverage for expenses incurred as a result of mental or nervous disorders. These insurers include: (1) health care service plans which cover hospital, medical, or surgical expenses on a group basis, and do not arrange or provide for direct health care service for its members; (2) group disability insurance which covers hospital, medical, or surgical expenses; (3) self-insured employee benefit plans; or (4) nonprofit hospital service plans not providing or arranging direct health care service. The terms and conditions of this coverage are to be agreed upon between the insurer and the subscriber group. Additionally, the insurer must communicate the availability of this coverage to all present and prospective subscriber groups.

Insurance; personal property valuation

Insurance Code §381.2 (new).

AB 342 (Bagley); STATS 1973, Ch 773

Section 381.2 has been added to the Insurance Code to require that when a policy includes coverage for loss of or damage to personal property of the insured and the insurer (1) places a valuation upon the specific items of covered property and (2) uses such valuation for purposes of determining the premium to be charged, then the insurer must compute any covered loss or damage which occurs during the term of the policy at such valuation without a deduction or offset. If the insurer wishes to use a different method to compute loss, the policy and any application therefor must set forth in prominent type the actual method of loss computation to be used. The provisions of this section do not apply to automobile insurance as defined by Section 116.