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## Insurance

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# Insurance

## Insurance; notice of cancellation and limitations on coverage

Insurance Code §§ 661, 677, 11580.1, 11580.2 (amended).  
SB 517 (Deddeh); 1987 STAT. Ch. 800

Existing law provides that a notice of cancellation<sup>1</sup> of an insurance policy<sup>2</sup> is effective only if based on nonpayment of a premium,<sup>3</sup> or suspension or revocation of the named insured's<sup>4</sup> driver's license or motor vehicle registration.<sup>5</sup> Furthermore, all notices of cancellation of policies of commercial insurance<sup>6</sup> must be in writing and must meet the statutory mailing and content requirements.<sup>7</sup> Prior law required the insurer<sup>8</sup> to furnish the facts upon which a cancellation was based if requested in writing by the insured.<sup>9</sup>

Under Chapter 800, the insurer may cancel a policy when there has been a discovery of fraud by the insured in pursuing a claim under the policy.<sup>10</sup> Chapter 800 requires the insurer to specify the reason for cancellation if a written request is mailed or delivered to the insurer within fifteen days of the date of cancellation.<sup>11</sup>

Existing law specifies the required provisions of an automobile liability insurance policy, but authorizes the insurer and insured to

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1. See CAL. INS. CODE § 660(g) (definition of cancellation).

2. See *id.* § 660(a) (policy means an automobile liability, automobile physical damage, or automobile collision policy, or any combination thereof); see also *id.* § 22 (definition of insurance).

3. See *id.* § 660(f) (definition of nonpayment of premium).

4. See *id.* § 23 (definition of insured).

5. *Id.* § 661(b) (not applicable to a nonrenewal, or to a policy which has been in effect less than 60 days at the time notice of cancellation is mailed by the insurer unless it is a renewal policy). See *id.* §§ 660(e) (definition of renewal), 660(h) (definition of nonrenewal).

6. See *id.* § 675.5(b) (definition of commercial insurance).

7. *Id.* § 677. Notice must be mailed to the insured at the address shown in the policy or the last known address and must state the grounds for valid notice of cancellation). *Id.*

8. See *id.* § 23 (definition of insurer).

9. 1972 Cal. Stat. ch. 237, sec. 1, at 478 (amending CAL. INS. CODE § 677).

10. CAL. INS. CODE § 661(a)(3).

11. *Id.* § 677 (except where the reason for cancellation is for nonpayment of premium and this is stated in the cancellation notice).

exclude designated persons from coverage under the policy in the insurance contract or in a separate writing.<sup>12</sup> Chapter 800 provides that an agreement by the insurer and any named insured to exclude a designated person more than sixty days after inception of the policy is effective from the date of the agreement.<sup>13</sup> The written agreement is conclusive evidence of the agreement, if signed by a named insured.<sup>14</sup>

Under existing law, uninsured motorist coverage<sup>15</sup> does not apply as primary and excess coverage when the insured<sup>16</sup> receives bodily injury<sup>17</sup> while occupying a motor vehicle<sup>18</sup> owned by the insured.<sup>19</sup> Chapter 800 expands this provision by providing that uninsured motorist coverage does not apply as primary or excess coverage when the insured receives bodily injury while occupying a motor vehicle leased to an insured under a written contract for a period of six months or longer.<sup>20</sup>

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12. *Id.* § 11580.1. *See id.* §§ 11580.1(b) (required provisions), 11580.1(d)(1) (optional provisions for limitations on coverage). *See also* Cal. State Auto. Ass'n Inter-Ins. Bureau v. Gong, 208 Cal. Rptr. 649, 657, 162 Cal. App. 3d 518, 530 (1984) (California Insurance Code section 11580.2(c) contains eight specific exclusions permissible in California automobile insurance policies, any exclusion not expressly authorized is impermissible and invalid); CAL. INS. CODE § 8 (definition of writing).

13. *Id.* § 11580.1(d)(1).

14. *Id.*

15. *See generally id.* § 11580.2 (uninsured and underinsured motorist coverage).

16. *See id.* § 11580.2(b) (definition of insured).

17. *See id.* (definition of bodily injury).

18. *See id.* § 11580.2(c)(6) (definition of motor vehicle).

19. *Id.* *See id.* § 11580.2(b) (definition of insured motor vehicle).

20. *Id.* § 11580.2(c)(6).

## Insurance; residential polling place liability and loss experience reports

Insurance Code § 11585 (new); § 11628 (amended).\*  
AB 1686 (Moore); 1987 STAT. Ch. 815

Under existing law, an insurance company must not discriminate against an insured on the basis of race, language, color, national

origin, ancestry, or geographic area,<sup>1</sup> in accepting applications, issuing or cancelling insurance policies, or using any of these factors to constitute a condition or risk by which a higher rate will apply to the insured.<sup>2</sup> An insurance company must also submit an annual report detailing loss experience in each zip code region to the Insurance Commissioner.<sup>3</sup> With the enactment of Chapter 815, all insurers<sup>4</sup> must specifically include in the loss experience reports, for each type of coverage, separate loss data for liability and physical damage coverage.<sup>5</sup> In addition, Chapter 815 requires all new and existing residential property insurance policies to extend coverage to incidents arising out of the use of the property as a polling place for state or local elections.<sup>6</sup>

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\* California Insurance Code section 11628 will not become effective until July 1, 1988.

1. A geographic area is any portion of California not less than 20 square miles defined by description in the rating manual of either an insured, or a rating bureau, in which the insurer is a member or subscriber. CAL. INS. CODE § 11628(a).

2. *Id.*

3. *Id.* The loss for family owned private passenger motor vehicles and for lightweight commercial motor vehicles with less than a one and a half-ton load capacity that is used for local service or retail delivery. *Id.* Normally these commercial motor vehicles are to be used within a fifty mile radius of garaging and are not part of a fleet of five or more vehicles under sole ownership. *Id.*

4. The insurer is licensed to issue and is issuing, motor vehicle liability policies and/or motor vehicle physical damage policies. *Id.*

5. *Id.*

6. *Id.* § 11585. The extension applies to liability policies issued in connection with residential property insurance; the coverage will be under the same terms and conditions as other liability provisions in the policy. *Id.*

## Insurance; vehicle repair kickbacks

Insurance Code § 753 (new).

AB 642 (Connely); 1987 STAT. Ch. 973

Under existing law, the Legislature declares that the control and limitation of unlawful rebates is an essential component of the regulation of the business practices of insurers.<sup>1</sup> Chapter 973 makes

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1. CAL. INS. CODE § 750.1.

it unlawful for any insurance agent,<sup>2</sup> broker, or solicitor<sup>3</sup> to receive any financial benefit<sup>4</sup> from an automobile repair facility in exchange for vehicle repair referrals.<sup>5</sup>

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2. *Id.* § 31 (insurance agent means a person authorized by and on behalf of an insurer to transact insurance).

3. *Id.* § 34 (means a natural person employed to aid an insurance agent or broker in insurance transactions other than life).

4. *Id.* § 753(c) (financial benefit means the receiving of any commission or gratuity, discount on repair costs, free repairs, or employment by a repair facility).

5. *Id.* § 753(a).

### Insurance; mental health services coverage—lifetime waiver

Health and Safety Code § 1374.5 (new); Insurance Code §§ 10176, 10177, 11512.5, 11512.8 (amended).  
SB 362 (Robbins); 1987 STAT. Ch. 1163

Existing law prohibits the exclusion or limitation of coverage for certain services under a health care or disability insurance policy.<sup>1</sup> Chapter 1163 provides that an individual health care service plan,<sup>2</sup> individual disability insurance policy, self-insured employee welfare benefit plan,<sup>3</sup> or hospital service contract<sup>4</sup> which includes mental health service coverage may not include a lifetime waiver for that coverage with respect to any applicant.<sup>5</sup> Under Chapter 1163, any such lifetime waiver provision is deemed unenforceable.<sup>6</sup> Chapter

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1. CAL. INS. CODE § 10120 (any exclusion, reduction, or limitation on a policy providing all or part payment of a covered sterilization operation or procedure is void); *id.* § 10119 (no policy of disability insurance which covers members of the insured's immediate family may be issued or amended if the policy contains any disclaimer, waiver, or other limitation of coverage of newborn infants of an insured from and after the moment of birth). *See id.* § 106 (definition of disability insurance).

2. CAL. HEALTH & SAFETY CODE § 1345(f) (definition of health care service plan).

3. CAL. INS. CODE § 10177 (definition of mental health coverage in self-insured employee welfare benefit plan).

4. *Id.* § 11512 (provisions required in hospital service contracts). *See id.* § 11493 (hospital services defined).

5. *Id.* §§ 10176, 10177, 11512.5, 11512.8; CAL. HEALTH & SAFETY CODE § 1374.5.

6. CAL. INS. CODE §§ 10176, 10177, 11512.5, 11512.8; CAL. HEALTH & SAFETY CODE § 1374.4.

1163 provides that if a nonprofit hospital service plan<sup>7</sup> includes coverage for inpatient care for nervous or mental disorders, the coverage must extend to psychiatric health facilities.<sup>8</sup>

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7. See generally CAL. INS. CODE §§ 11491-11517 (governing establishment, maintenance and operation of nonprofit hospital service plans).

8. CAL. INS. CODE § 11512.5(a). See CAL. HEALTH & SAFETY CODE § 1250.2 (definition of psychiatric health facility).

### Insurance; insurance rate changes—grievance hearings

Insurance Code §§ 1858.01, 1858.02, 1858.35 (new); §§ 1858, 1858.1, 1858.2, 1858.3, 1858.4, 1859.1 (amended).  
AB 1687 (Moore); 1987 STAT. Ch. 1289

Under existing law, rates for insurance coverage<sup>1</sup> are established in accordance with designated standards.<sup>2</sup> A person aggrieved by any rate charged<sup>3</sup> may, in writing, request the insurer to review the matter.<sup>4</sup> If the insurer fails to grant the request<sup>5</sup> or refuses to grant all or part of the relief requested, the aggrieved person may request a hearing with the Insurance Commissioner (Commissioner).<sup>6</sup> If after an examination the Commissioner determines there is probable cause to believe a violation has occurred, the insurer must be notified in writing of the extent of noncompliance alleged and be given a reasonable time within which the noncompliance must be corrected.<sup>7</sup> At the election of the Commissioner, or if the insurer fails to correct the noncompliance, a public hearing may be held<sup>8</sup> to determine if

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1. CAL. INS. CODE § 1851 (types of insurance exempt from this chapter).

2. *Id.* § 1850. See *id.* § 1852 (standards for setting rates).

3. 1947 Cal. Stat. ch. 805, § 1, at 1904 (enacting CAL. INS. CODE § 1858) (including rating plan, rating system, or underwriting rule followed by an insurer).

4. CAL. INS. CODE § 1858 (includes insurer or rating organization).

5. The request is considered rejected if not answered within 30 days. *Id.*

6. *Id.* (must specify grounds for complaint in writing). If the Commissioner has a similar complaint or believes probable cause for the hearing does not exist, the request for a hearing may be denied. *Id.* See CAL. INS. CODE § 1858(c) (if probable cause does not exist, the Commissioner must advise the complainant and deny any public hearing).

7. *Id.* § 1858.1.

8. *Id.* §§ 1858.1, 1858.2(a)-(e) (must mail a notice 30 days before date set for the hearing specifying matters to be considered at the hearing).

any rate is excessive.<sup>9</sup> Under Chapter 1289, an aggrieved person may file a written complaint with the Commissioner without first requesting a review with the insurer.<sup>10</sup> The Commissioner must advise the insurer of the nature of the complaint filed.<sup>11</sup> Review of the complaint must be had to determine if probable cause exists to believe that a violation has occurred.<sup>12</sup> If the complainant requests a public hearing, the Commissioner must investigate the complaint and grant or deny the request within a reasonable time.<sup>13</sup> The Commissioner may, at any time, require the complainant and insurer to meet and confer for the purpose of resolving the matter.<sup>14</sup> Further, Chapter 1289 requires the Commissioner to hold a public hearing if the insurer does not comply with an order, or fails to establish to the satisfaction of the Commissioner that compliance does exist.<sup>15</sup>

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9. 1979 Cal. Stat. ch. 373, § 216, at 1344 (amending CAL. INS. CODE § 1852.2). If, at the public hearing, the Commissioner finds that the rate, rating plan, or rating system violates this section, the Commissioner may issue an order prohibiting the use of such rate or rating system. CAL. INS. CODE § 1858.3(a). The Commissioner may order compliance within a reasonable time and order a fine collectable by the Commissioner for each day a person fails to comply with an order. *Id.* § 1858.3(b), (c).

10. *Id.* § 1858 (a person may also request a public hearing).

11. *Id.* § 1858(b).

12. *Id.* § 1858.01. This does not prohibit the aggrieved person from requesting the insurer to review the manner in which the rate, plan, system, or rule is applied. *Id.*

13. *Id.* 1858.01(b) (reasonable time may not exceed 90 days for a personal life insurance policy, or 120 days for commercial insurance). If the complainant enters into informal conciliation of the complaint, the time limitations set for the determination of whether a public hearing should be held will be tolled for up to 10 working days. *Id.* § 1858.01(c).

14. *Id.* § 1858.02(a). The Commissioner may refuse to find probable cause, and may deny request for public hearing if complainant refuses to enter informal conciliation at request of the Commissioner. *Id.*

15. *Id.* § 1858.2. If the insurer refuses to enter informal conciliation, the Commissioner may hold a public hearing even if complainant did not request a hearing. *Id.* § 1858.2(c). Commissioner must suspend or revoke, in whole or in part, the license of any rating organization or the certificate of authority of any insurer who fails to comply with an order within the time period specified by the Commissioner. *Id.* § 1858.4.

## Insurance; California Automobile Assigned Risk Plan—plan requirements

Insurance Code § 11624 (amended).  
SB 915 (Robbins); 1987 STAT. Ch. 1347

Existing law establishes the California Automobile Assigned Risk Plan<sup>1</sup> (Plan) to provide the minimum automobile liability insurance<sup>2</sup> coverage required to meet the State's financial responsibility laws.<sup>3</sup> Chapter 1347 provides that the Plan must include procedures for notifying the agent,<sup>4</sup> within a reasonable time, of any nonpayment by the insured.<sup>5</sup>

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1. CAL. ADMIN. CODE tit. 10, §§ 2400-2498.4.2 (1986).

2. CAL. INS. CODE § 22 (definition of insurance); *see id.* § 116 (definition of automobile insurance).

3. *Id.* § 11620. *See* Billington v. Inter-Ins. Exch., 71 Cal. 2d 728, 740, 456 P.2d 982, 989, 79 Cal. Rptr. 326, 333 (1969) (the purpose of the assigned risk plan is to ensure that persons who would otherwise be unqualified are able to obtain liability insurance). *See also* CAL. VEH. CODE § 16020 (every driver and owner of a motor vehicle must maintain in force one of the forms of financial responsibility specified in California Vehicle Code section 16021).

4. CAL. INS. CODE § 11624 (the broker or solicitor who obtained the insurance policy under the plan for the insured). *See id.* § 31 (definition of agent).

5. *Id.* § 11624. *See id.* § 23 (definition of insured).



