

1996

## 1995-1996 Legislative Summary

Assembly Committee on Insurance

Follow this and additional works at: [http://digitalcommons.law.ggu.edu/caldocs\\_assembly](http://digitalcommons.law.ggu.edu/caldocs_assembly)



Part of the [Legislation Commons](#)

---

### Recommended Citation

Assembly Committee on Insurance, "1995-1996 Legislative Summary" (1996). *California Assembly*. Paper 373.  
[http://digitalcommons.law.ggu.edu/caldocs\\_assembly/373](http://digitalcommons.law.ggu.edu/caldocs_assembly/373)

This Article is brought to you for free and open access by the California Documents at GGU Law Digital Commons. It has been accepted for inclusion in California Assembly by an authorized administrator of GGU Law Digital Commons. For more information, please contact [jfischer@ggu.edu](mailto:jfischer@ggu.edu).

California Legislature  
Assembly Committee

on

Insurance

DAVID KNOWLES  
CHAIRMAN

1995-1996 LEGISLATIVE SUMMARY



MEMBERS

Fred Aguiar  
Marguerite Archie-Hudson  
Tom Bates  
Scott Baugh  
Marilyn Brewer  
James Brulte  
Mickey Conroy  
Jim Cunneen

Barbara Freidman  
Tom Hannigan  
Trice Harvey  
Dan Hauser  
Bill Hoge  
Gary Miller  
Michael Sweeney  
Curtis Tucker

Staff

Kevin Hanley, Chief Consultant  
Mark Leonard, Consultant  
Daryl M. Thomas, Consultant  
Monica E. Williamson, Consultant  
Laura Colby, Committee Secretary  
Jody Mikula, Secretary

KFC  
290  
. A24  
1995-96

STATE DEPOSITORY  
LAW LIBRARY  
APR 24 1997  
GOLDEN GATE UNIVERSITY

R-603-A

KFC  
290  
A24

CHIEF CONSULTANT  
Kevin Hanley

CONSULTANTS  
Mark Leonard  
Monica E. Williamson  
Daryl M. Thomas

COMMITTEE SECRETARY  
Laura Colby

STATE CAPITOL  
P.O. BOX 942849  
SACRAMENTO, CA 94249-0001  
916-445-9160

## California Legislature Assembly Committee on Insurance

DAVID KNOWLES  
CHAIRMAN

STATE DEPOSITORY  
LAW LIBRARY

APR 24 1997

GOLDEN GATE UNIVERSITY

MEMBERS:

JIM CUNNEEN  
FRED AGUIAR  
MARGUERITE ARCHIE-HUDSON  
TOM BATES  
SCOTT BAUGH  
MARILYN C. BREWER  
JAMES BRULTE  
MICKEY CONROY  
BARBARA FRIEDMAN  
TOM HANNIGAN  
TRICE HARVEY  
DAN HAUSER  
BILL HOGE  
GARY MILLER  
MICHAEL SWEENEY  
CURTIS R. TUCKER, JR.

November 4, 1996

Dear Colleagues:

I submit to you the Assembly Insurance Committee's Legislative Summary for the 1995-96 session of the California Legislature. This summary contains a brief description of the main provisions of every bill that passed the Assembly Insurance Committee and was either signed or vetoed by Governor Pete Wilson. One hundred and twenty-seven (127) bills were approved by the committee and passed both houses of the California Legislature. Five bills were vetoed by Governor Wilson.

This summary also contains a brief description of the six informational hearings conducted by the committee. These hearings focused on the homeowners/earthquake insurance availability crisis, how the state should be organized to effectively regulate private health insurance and managed care, and how unnecessary litigation and fraud continues to plague our auto insurance and the workers' compensation systems.

Overall, I believe that the 1995-96 session was productive and beneficial for the residents of California. My chairmanship of the committee - from my appointment in February 1995 to the final days of the 1996 session - was dominated by the urgent need for the Legislature to solve the homeowners/earthquake insurance availability crisis.

As the 1995 legislative session began, we were faced with the stark fact that because of an ill-considered 1985 state law that requires insurance companies to offer earthquake insurance with the standard homeowners policy (referred to as "linkage") and the large and unexpected losses from the Northridge earthquake, property and casualty insurers representing 70% of the homeowners market had ceased selling those policies in California. The decreasing availability of homeowners insurance was having an adverse impact on the recovery on the state's economy. Furthermore, because of the linkage requirement, most property and casualty insurers in the state acknowledged that they would face certain bankruptcy following another earthquake similar or greater in magnitude than Northridge. The insolvency of these insurers would mean that most residents with damaged homes would get nothing or just pennies on the dollar following a major earthquake.

The Legislature in 1995 took the first step toward solving the homeowner/earthquake insurance availability crisis by passing AB 13

(McDonald) and AB 1366 (Knowles). AB 13 specified a number of conditions that would have to be met in order for the California Earthquake Authority (CEA), a voluntary insurance pool to issue policies of basic residential earthquake insurance, to become operational. AB 1366 specified in statute the "mini-policy," the minimum coverages that an insurer must offer to satisfy the existing requirement that insurers who sell homeowners policies must offer earthquake coverage.

The Legislature in 1996, faced with continued restrictions on the sale of homeowners policies, and a lack of action by the U.S. Congress to exempt (like most other Western industrial nations) the reserves held by insurers from federal taxation, the Assembly and Senate convened a conference committee to develop the operational structure of the CEA. The strongest selling point for the CEA was that, unlike insurers, it could accumulate tax-exempt reserves to pay for claims in the event of an earthquake. Faced with a lack of congressional action to give tax-exempt status to insurers' reserves, an unwillingness on the part of the California Legislature to repeal the linkage requirement, and the unacceptable option of doing nothing to ameliorate the homeowners/earthquake insurance availability crisis, the Legislature approved a package of bills, AB 2086 (Knowles), AB 3232 (Knowles), and SB 1993 (Calderon) that allowed the CEA to become operational. On September 27, 1996, Governor Wilson signed the CEA package of bills.

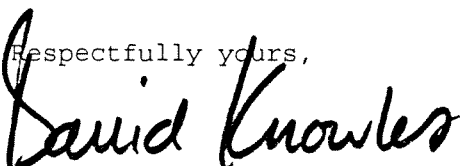
On health insurance issues, the Legislature moved forward to help ensure that in the rapid transition from fee-for-service medical reimbursement to capitation and managed care, that high quality of care is provided to patients. The Legislature passed and the Governor approved AB 1663 (Friedman/Knowles) which will give terminally-ill patients the right to appeal to a panel of independent medical experts an insurer's or HMO's refusal to pay for a medical treatment it considers to be experimental or investigational, AB 2649 (Thompson) which prohibits contracts between HMOs and physicians from containing incentives to deny, reduce, limit or delay medically necessary care, and AB 3013 (Alby) which prohibits contracts between HMOs and physicians containing "gag clauses." The committee also conducted an important information hearing on how the state should regulate private health insurance and managed care.

Not much progress was made in the area of workers' compensation reform. The problem is that despite dramatic decreases in the premiums paid by employers for workers' compensation insurance, the question remains as to whether many of the cost-drivers in the system - rising medical costs, litigation in the determination of permanent disability, and fraud - remain. It is felt by many that, without further reform, premiums will eventually begin to climb again. Fourteen reform measures that passed the Assembly failed in the State Senate. Only AB 1650 (Morrissey), which permits an insurer or self-insured employer to provide a notice to an injured worker with a check for temporary disability benefits that warns the worker that fraud could result in the loss of benefits, fines, and criminal prosecution, emerged from the Senate Industrial Relations Committee and was signed into law.

Results with positive reform measures in the area of auto insurance were even more disappointing, given the increased level of certainty of what is wrong with California's auto insurance system and how much of it can easily be reformed with appropriate legislative action. Despite some of the highest auto insurance premiums in the nation, unusually high levels of noneconomic damage awards based on subjective complaints of pain and suffering, the proliferation of auto fraud mills, and the fact that 28% to 33% of all drivers in California are uninsured, the State Senate killed seven reform measures that had passed the Assembly. Only AB 650 (Speier), which requires motor vehicle owners to present evidence of financial responsibility when renewing their vehicle's registration or when being issued a citation or being involved in an auto accident, survived the State Senate and was signed into law.

To summarize, I believe we made significant progress on behalf of the residents of California on homeowners/earthquake insurance and health insurance. However, we certainly fell short in successfully attacking the cost-drivers within California's auto insurance system. Significant steps toward reform in workers' compensation were taken in 1993. By contrast, however, we have not made any progress on reducing the cost-drivers within our litigious and fraud-ridden auto insurance system in many, many years.

I very much enjoyed being chairman of this important committee for the 1995-96 session. With your help, it has been a career-capping experience and a true honor. Next year, as a private citizen, I look forward to watching the Legislature, and I am hopeful that the Assembly Insurance Committee will continue to enact reforms that benefit the hard-working residents of our great state.

Respectfully yours,  
  
David Knowles  
Chairman

## **TABLE OF CONTENTS**

AGENTS AND BROKERS	1
AUTOMOBILE INSURANCE	3
THE BUSINESS OF INSURANCE	5
GUARANTEE ASSOCIATIONS	11
HEALTH INSURANCE	12
HOMEOWNERS/EARTHQUAKE INSURANCE	17
INSURANCE COMMISSIONER/REGULATORY	21
INSURANCE CONTRACTS	24
INSURANCE COVERING LAND	25
LIABILITY AND WORKERS' COMPENSATION INSURANCE	27
LIFE AND DISABILITY INSURANCE	33
STATE DISABILITY AND UNEMPLOYMENT INSURANCE	35
SURPLUS LINES	37
VETOED BILLS	39
INFORMATIONAL HEARINGS	42

## AGENTS AND BROKERS

- AB 23 (Archie-Hudson)      Bonds. Increases the amount of a bond that is required to be posted by a licensed agent-broker from \$5,000 to \$10,000. (CHAPTER 347, STATUTES of 1995)
- AB 702 (Cunneen)      Licensee Number Disclosure. Requires every licensee of the Department of Insurance to prominently display his or her license number on letterhead, business cards, and printed advertisements. (CHAPTER 217, STATUTES of 1995)
- AB 2177 (Miller)      Limited Liability Companies. Allows Limited Liability Companies (LLCs) to be licensed insurance agents, brokers or surplus line brokers. (CHAPTER 883, STATUTES of 1996)
- AB 2262 (Cunneen)      General Agents: Notice Requirements. Provides that an obligation of an insurer to furnish any notice to its insured required by law may be carried out by an insurer's general agent. Provides that an insurer's delegation of a notice obligation to a general agent does not limit or negate the insurer's responsibility or liability if the general agent fails to provide the required notice. (CHAPTER 237, STATUTES of 1996)
- SB 351 (Peace)      Compensation. Specifies that when an insurer is prohibited by statute from nonrenewing a risk, the insurer shall continue to compensate the broker-agent for servicing the policies written by the insurer prior to the termination of the broker-agent relationship for a period not to exceed three years after the date of termination. Compensation would also continue until the insurer can legally cancel or nonrenew the risk or until the broker-agent moves the policyholder to another insurer. Also makes technical conforming changes to the rights and responsibilities of insurance brokers. (CHAPTER 921, STATUTES of 1995)

SB 354 (Rogers)

Continuing Education. Deletes the January 1, 1998 date of repeal on the requirements for mandatory prelicensing and continuing education with respect to licensure as a fire and casualty broker-agent or as a life agent. Note: See the Health Insurance section for a summary of the provisions in this bill relating to Multiple Employer Welfare Arrangements (MEWAs). (CHAPTER 673, STATUTES of 1996)



## AUTOMOBILE INSURANCE

AB 650 (Speier)

Evidence of Financial Responsibility. Requires motor vehicle owners to present evidence of financial responsibility when renewing their vehicle's registration with the Department of Motor Vehicles, when being issued a citation for specified violations of the Vehicle Code, and when involved in a motor vehicle accident. Violations will be subject to fines of \$500-\$2000. The court may also order the impoundment of the vehicle, for good cause. Provides that this measure would become operative only if SB 49 (Lockyer) is enacted and becomes operative. (CHAPTER 1126, STATUTES of 1996)

AB 1602 (Poochigian)

Uninsured Motorist Coverage: Arbitration Proceedings. Requires an insured to notify their insurer of any arbitration proceedings arising from the insured's uninsured motorists coverage. Requires the arbitration to be concluded within specific time periods. (CHAPTER 738, STATUTES of 1995)

AB 3313 (Brewer)

California Automobile Assigned Risk Program: Electronic Transmission of Applications. Clarifies that coverage for enrollees in the California Automobile Assigned Risk Program (CAARP) becomes effective when the application is electronically transmitted to the plan's manager. The producer must electronically transmit the application to the plan manager within 24 hours of its completion, where the applicant requests immediate coverage. The application form must contain a boldface notice to insureds, explaining when coverage will become effective. (CHAPTER 350, STATUTES of 1996)

SB 49 (Lockyer)

Automobile Insurance Reform: Intent Language. Declares legislative intent that reforms need to be enacted to prevent insurance fraud, enhance vehicle

safety, to make automobile insurance more affordable for Californians, and to reduce the number of litigated vehicle accident claims. NOTE: AB 650 (Speier) could not be enacted without this measure also being signed into law. (CHAPTER 1109, STATUTES of 1996)

SB 672 (Lewis)

Assigned Risk Automobile Insurance: Reporting Requirements. Repeals various reporting requirements in the automobile assigned risk law and instead, requires that information to be filed in the annual record of loss statements required to be filed under the Rosenthal-Robbins Auto Insurance Nondiscrimination Law. (CHAPTER 755, STATUTES of 1995)

SB 905 (Leslie)

Good Driver Discount. Excludes from eligibility for a Good Driver Discount a person who has been convicted of certain driving under the influence (drug or alcohol) related driving offenses or vehicular manslaughter while driving under the influence within the previous 7 years. (CHAPTER 565, STATUTES of 1995)

## THE BUSINESS OF INSURANCE

AB 308 (Johnson)

Risk Retention Groups. Makes various technical changes to the Risk Retention Act of 1991 including requiring risk retention groups to submit documentation to the Insurance Commissioner which identifies the state or states in which the group is domiciled. (CHAPTER 352, STATUTES of 1995)

AB 582 (Hoge and Hauser)

Insurance Manuals. Allows members and subscribers of insurance advisory organizations to use manuals which include information on policy writing rules, rating plans, and related information as specified in current law, provided that the insurers do not use the manuals in a manner that would violate unfair business practice laws. Allows the Insurance Commissioner to prevent the use of a manual which he finds to contemplate activities and practices that are unfair or unreasonable. (CHAPTER 1002, STATUTES of 1996)

AB 1024 (Aguilar)

Insurer Liability: Insolvency Proceedings. Eliminates the provision in existing law which prohibits admitted insurers from assuming or reinsuring any of a nonadmitted insurer's liability, unless the admitted insurer assumes all the insurance and liabilities of the nonadmitted insurer. Provides that no admitted insurer shall assume or reinsure the liabilities of a nonadmitted insurer upon subject matter located in this state for the purpose of circumventing rate and form provisions or nonadmitted insurer provisions. Requires the Insurance Commissioner to issue a bulletin to govern the reporting by admitted insurers of their reinsurance transactions with nonadmitted insurers. Specifies that mutual debts or credits are set off, whether arising out of one or more contracts. Provides that certain transfers are preferences, and that any preference may be avoided by the liquidator if certain conditions are met.

Provides that every transfer made or suffered and every obligation incurred within one year prior to filing a successful petition for conservation or liquidation is fraudulent as to then or existing and future creditors if made or incurred without fair consideration or with actual intent to hinder, delay, or defraud existing or future creditors. (CHAPTER 580, STATUTES of 1995)

AB 1053 (Tucker)

Deposit of Securities. Allows all insurance companies to deposit with the Insurance Commissioner, where applicable, securities in "book entry" form, in a manner similar to that authorized for security deposit by workers' compensation insurers. (CHAPTER 466, STATUTES of 1995)

AB 1274 (McDonald)

Insurer Liquidations. Provides that at any time during proceedings for the liquidation of certain domestic insurance corporations the Insurance Commissioner may apply for, and the court shall make, an order to permit the Commissioner to sell the charter and license of the corporation while continuing to administer and distribute the remaining assets, as specified. Provides that claims shall be filed within 6 months to one year, at the Commissioner's discretion. This bill also vests discretion in the Commissioner regarding liquidations, as specified. (CHAPTER 578, STATUTES of 1995)

AB 2538 (Miller)

Holding Companies. Amends California's Insurance Holding Company Regulatory Act to conform with the National Association of Insurance Commissioners Model Holding Company Act. Reduces the number of foreign insurers subject to the Act's provisions and filing requirements. (CHAPTER 820, STATUTES of 1996)

AB 2692 (Mazzoni)

Reinsurance: Financial Credit. Allows insurers that have a policy of reinsurance with a non-admitted carrier, to receive a credit to their financial statements where they invest reinsurance trust funds in cash or specified securities. (CHAPTER 524, STATUTES of

1996)

SB 267 (Rosenthal)

Lender Requirements. Provides that no person making a loan of money on the security of residential real property shall reject or refuse to accept a policy of fire and casualty insurance underwritten by an insurer chosen by the borrower for any reason that the lender would not impose on an insurer chosen by the lender when the borrower requests the lender to obtain the insurance. Provides that when a lender or purchaser of a mortgage on real property has required and obtained a copy of the insurance policy covering that real property, the lender or purchaser shall provide a copy of the insurance policy or other evidence of insurance acceptable to the purchaser to a subsequent purchaser of the mortgage, servicing agent, or insurance tracking service with whom the lender or purchaser subsequently contracts, as specified. (CHAPTER 857, STATUTES of 1995)

SB 455 (Lewis)

Redomestication. Defines certain terms relating to the transfer of an insurer's domicile, or redomestication. Requires the Secretary of State to file a certificate of redomestication for an insurer that has previously filed articles of incorporation if the Insurance Commissioner has given his approval. Requires an additional filing with the Secretary of State of a notice of intent to redomesticate, and upon completion of the redomestication, the filing of a designation of an agent for service of process, with a specified exception. (CHAPTER 702, STATUTES of 1995)

SB 733 (Lewis)

Excess Funds Investment. Allows insurers the option of structuring the pooling organization as limited liability companies, as well as, corporations or partnerships, and makes various technical changes to procedures regarding investments by insurance companies. (CHAPTER 197, STATUTES of 1995)

SB 781 (Lewis)

Foreign Investments. Allows a domestic insurer with admitted assets exceeding \$500 million to acquire any foreign investment if: 1) the foreign investments do not exceed the aggregate 12% of the total admitted assets; 2) no more than 7.5% of its admitted assets consist of investments rated 2-6 by the National Association of Insurance Commissioners (NAIC); 3) no more than 3% of its admitted assets consist of investments rated 3-6 by the NAIC; and 4) no more than 1.5% of its admitted assets consist of investments rated 4-6 by the NAIC. Makes various technical changes to laws regarding foreign investments of insurance companies. (CHAPTER 414, STATUTES of 1995)

SB 794 (Kopp)

Administrative Procedure Act: Rate Hearings. Adopts technical amendments concerning administrative adjudicatory provisions of the Administrative Procedure Act (APA), and regulates oil spill cleanup agent license renewals. Provides that APA procedures concerning the adoption of a proposed decision shall apply to insurance rate hearing proceedings. (CHAPTER 390, STATUTES of 1996)

SB 1091 (Russell)

Interstate Insurance Receivership Compact. Provides for the adoption of the Interstate Insurance Receivership Compact, entered into with all other jurisdictions that have legally joined in the compact in substantially the same form. The compact enacts provisions for the purpose of allowing efficient and uniform insurer laws and operations and to coordinate interaction between insurer receivership and guaranty association operations. (CHAPTER 843, STATUTES of 1995)

SB 1179 (Rosenthal)

Risk-based Capital. Applies risk-based capital (RBC) statutory requirements to life and health insurers and to property and casualty insurers. (CHAPTER 708, STATUTES of 1996)

SB 1228 (Committee on Insurance)

Fraud: Disclosures. Corrects a

chaptering out problem from previous legislation and specifies that the following warning shall apply to all claim forms, not just for claim forms for liability policies: "Any person who knowingly presents a false or fraudulent claim for the payment of a loss is guilty of a crime and may be subject to fines and confinement in state prison."  
(CHAPTER 573, STATUTES of 1995)

SB 1328 (Haynes)

Funding Agreements. Revises an existing provision establishing priority claims made against an insolvent insurer to apply it to all claims under insurance and annuity policies and contracts, including funding agreements, of an insolvent insurer that are not covered claims. (CHAPTER 795, STATUTES of 1995)

SB 1485 (Lewis)

Financial Statements. Amends California law regarding the allowance of credit for liabilities ceded to reinsurers, to conform to National Association of Insurance Commissioners (NAIC) model regulations. Establishes an accreditation procedure for nonadmitted reinsurers. Allows domestic insurers to receive a financial credit for liabilities ceded to accredited reinsurers. (CHAPTER 840, STATUTES of 1996)

SB 1496 (Johnson)

Tender Offers. Provides that the sale of a controlling interest of an insurer is exempt from the requirement for prior approval by the Insurance Commissioner, where the transaction occurs within a holding company system, and no member or affiliate incurs any liability related to the transaction. (CHAPTER 311, STATUTES of 1996)

SB 1705 (Lewis)

Life Insurers: Insolvency. Clarifies that persons with claims against the general fund of an insolvent life insurer, arising out of a modified guaranteed annuity contract, will be given fifth priority. Such claims by the federal government will be changed from fourth to sixth priority. (CHAPTER 167, STATUTES of 1996)

SB 1721 (Killea)

Senior Insurance. Extends the January 1, 1997 sunset date until January 1, 2001, on the exemption from certain regulatory requirements for those disability insurance policies that are sold through direct response (mail), to people age 65 and over. (CHAPTER 678, STATUTES of 1996)

SB 1815 (Lewis)

Foreign Investments. Allows property & casualty insurers to invest up to 50% of their permissible foreign investment funds in a qualified depository in any one country. Provides that foreign financial institutions may qualify as a subcustodian, for the purpose of serving as a depository for an insurer's foreign investment funds, by satisfying specified financial criteria. (CHAPTER 179, STATUTES of 1996)

SB 1921 (O'Connell)

Foreign Investments. Provides that domestic insurers may invest up to 4% of their admitted assets in foreign investments, without being subject to restrictions that apply to insurers that invest up to 12% of admitted assets, if the insurer's admitted assets exceed \$500 million. (CHAPTER 127, STATUTES of 1996)

SB 2047 (Leslie)

Joint Powers Authority: Reinsurance. Provides that any liability or loss under a joint powers agreement of public entities for the pooling of self-insured claims or losses may be reinsured to the same extent and the same manner as insurance provided by an insurer. (CHAPTER 181, STATUTES of 1996)



## GUARANTEE ASSOCIATIONS

- AB 2697 (Brewer)      Liquidation Proceedings. Grants the California Insurance Guarantee Association (CIGA) the right to intervene as a party in a proceeding brought by the Insurance Commissioner to liquidate a member insurer. (CHAPTER 252, STATUTES of 1996)
- SB 416 (Lewis)      Delegation of Powers: Annuity Contracts. Provides that the California Life and Health Insurance Guarantee Association may delegate the power to administer the association, to a management company. Provides guarantee coverage for specified unallocated annuity contracts sold to non-profit educational charities. (CHAPTER 386, STATUTES of 1995)
- SB 879 (Committee on Insurance)      Disaster Revenue Bonds. Authorizes the Department of Insurance to issue revenue bonds at the request of the California Insurance Guarantee Association (CIGA) following a catastrophic disaster to help pay claims of insolvent insurers. The revenue bonds would be repaid by assessments imposed on CIGA member insurers. (CHAPTER 793, STATUTES of 1996)

## HEALTH INSURANCE

- AB 1360 (Knowles)      Qualified Associations. Authorizes a plan or carrier to enter into contractual agreements with qualified associations under which the associations or their third-party administrators may assume responsibility for performing specific administrative services. Subjects these provisions to a sunset date of January 1, 2003. (CHAPTER 641, STATUTES of 1996)
- AB 2649 (Thompson)      Health Care Service Plans: Provider Incentives. Prohibits health care service plan contracts from containing incentives to deny, reduce, limit or delay specific medically necessary and appropriate care. Extends the same restriction to any subcontracting arrangements. Requires plans to disclose the basic method of reimbursement used to compensate providers. (CHAPTER 1014, STATUTES of 1996)
- AB 3013 (Alby)      Health Care Service Plans: Patient Advice. Prohibits health care service plans from contractually limiting a physician and surgeon or other licensed health care provider from fully advising patients about treatment options. (CHAPTER 1089, STATUTES of 1996)
- AB 3142 (Granlund)      Supplemental Health Policies. Clarifies that a supplemental health policy is not a "health benefit plan" as the term is used in statute concerning small group reform and the statute concerning pre-existing conditions. Specifies that rejection for a supplemental insurance policy does not qualify for the Major Risk Medical Insurance Program. (CHAPTER 544, STATUTES of 1996)
- AB 3251 (Gallegos)      Health Care Service Plans: Independent Medical Opinions. Requires health care service plans to file with the Department of Corporations a written policy describing the manner in which the plan determines if a second medical opinion is

medically necessary and appropriate, and requires notification of the policy and related information be provided to all plan enrollees. (CHAPTER 1091, STATUTES of 1996)

SB 354 (Rogers)

Multiple Employer Welfare Arrangements. Extends until January 1, 2001 the sunset date on those provisions that provide for state regulation on multiple employer welfare arrangements (MEWAs). Note: See the Agent and Brokers section for a summary of the provisions of this bill that relate to the continuing education requirements of agents and brokers. (CHAPTER 673, STATUTES of 1996)

SB 661 (Maddy)

Major Risk Medical Insurance Program: Subsidy Amounts. Authorizes the Managed Risk Medical Insurance Board (MRMIB) to adjust premiums so that subscribers would pay additional subsidy amounts above the program's average subsidy. Authorizes MRMIB to increase maximum copayments and deductibles. (CHAPTER 792, STATUTES of 1996)

SB 1020 (Johnston)

Insurance Coverage: Genetic Characteristics. Prohibits plans and insurers from offering or providing different terms, conditions, or benefits, on the basis of a person's genetic characteristics. Imposes an increased penalty for a violation of these provisions by an insurer or plan, and specifies certain additional remedies and administrative penalties, with respect to a violation of those provisions. Penalizes, except as specified, the disclosure of the results of a test for a genetic characteristic by plans or insurers, and imposes civil, and in some cases, criminal liability for a violation. (CHAPTER 695, STATUTES of 1995)

SB 1478 (Solis)

Reimbursement of Claims. Provides that the obligation of the plan or insurer to comply with the requirement of reimbursing claims no later than 30 days after receipt of the claim shall not be waived when the insurer requires its

contracting entities to pay claims for covered services, except under certain circumstances. (CHAPTER 711, STATUTES of 1996)

SB 1547 (Peace)

Disclosure of Subacute Coverage.

Requires health insurers to fully disclose to enrollees and subscribers coverage for subacute care, transitional inpatient care or care provided in skilled nursing facilities (SNF). (CHAPTER 1024, STATUTES of 1996)

SB 1559 (Peace)

Private Purchasing Alliances. Authorizes the formation of purchasing alliances, to be formed by individuals, partnerships, corporations, or trusts for the purpose of providing health benefits to employers, small employers, and their employees. Authorizes the purchasing alliances to offer various forms of coverage. Requires purchasing alliances to meet certain criteria and to be certified by the Insurance Commissioner. (CHAPTER 916, STATUTES of 1996)

SB 1581 (Rosenthal)

Health Insurance Counseling and Advocacy Program. Requires every health care service plan contract that provides or supplements Medicare benefits, to include a specified notice concerning the availability of counseling by the Health Insurance Counseling and Advocacy Program (HICAP). (CHAPTER 1113, STATUTES of 1996)

SB 1596 (Kopp)

Pharmacists. Authorizes health care service plans and disability insurers that offer coverage for a service that is within the scope of practice of a duly licensed pharmacist, to pay or reimburse the cost of the service performed by a pharmacist for the plan or insurer if the pharmacist otherwise provides services for the plan or insurer. (CHAPTER 527, STATUTES of 1996)

SB 1665 (Thompson)

Telemedicine: Insurance Coverage.

Provides that no health care service plan or disability insurance contract that is issued, amended, or renewed, on or after January 1, 1997, shall require

face-to-face contact between a health care provider and patient for medical services appropriately provided through telemedicine, subject to all the terms and conditions of the contract agreed upon between the enrollee and the health plan or insurer. Requires the health practitioner to obtain verbal and written informed consent from the patient prior to delivering health care via telemedicine. (CHAPTER 864, STATUTES of 1996)

SB 1740 (Johnston)

Multiple Employer Welfare Arrangements: Genetic Characteristics. Prohibits multiple employer welfare arrangements (MEWAs) from seeking, using, or maintaining any genetic information for any nontherapeutic purpose. Provides that the filing deadline for a certificate of compliance to act as a MEWA is November 30, 1995. Revises the definition of genetic characteristics. (CHAPTER 532, STATUTES of 1996)

SB 1798 (Killea)

Health Care Service Plans: Contracts With Nonphysician Providers. Authorizes a medical group, physician, or independent practice association that contracts with a health care service plan to enter into a contract with a licensed nonphysician to provide medical services to plan enrollees covered by the contract between the plan and the group or association. (CHAPTER 533, STATUTES of 1996)

SB 1805 (Rosenthal)

Health Care Practitioners: Patient Advice. Provides that violations against protecting health care practitioners that advocate for appropriate health care on a patient's behalf and prohibitions against the inclusion of gag clauses in provider contracts by health care service plans and disability insurers would be a violation of the Insurance Code and would constitute grounds for disciplinary action against a health plan. (CHAPTER 1094, STATUTES of 1996)

SB 1847 (Russell)

Physicians and Surgeons: Patient Advice. Prohibits any person from penalizing a

physician and surgeon for advocating on behalf of patients or from in any way discouraging a physician and surgeon from communicating information to a patient in furtherance of medically appropriate health care. (CHAPTER 260, STATUTES of 1996)

SB 1866 (Committee on Insurance)

Nonprofit Hospital Service Plans.  
Repeals an obsolete chapter of the Insurance Code regulating nonprofit hospital service plans. (CHAPTER 484, STATUTES of 1996)

SB 1875 (Maddy)

Health Care Service Plans: Appeals and Grievances. Authorizes a health care service plan to include a prescribed statement relating to Medicare or Medi-Cal appeal rights in their quarterly report. Requires the Commissioner of Corporations, if requested by a health plan, to include the prescribed statement in, and to attach a brief explanation prepared by the plan to, any written report made available to the public and prepared by the Commissioner that describes or compares complaints that are pending and unresolved with the plan for 30 days or more. (CHAPTER 534, STATUTES of 1996)

SB 2043 (Rosenthal)

Medicare Supplement Policies: COBRA Coverage. Provides that an individual, who is currently covered by a Medicare supplement policy, would be entitled to an annual 30-day open enrollment period in which that individual would have the opportunity to choose another supplement policy that offers equal or lesser benefits than the previous coverage. Conforms current law regulating Medicare supplement policies to the newly-revised standards developed by the National Association of Insurance Commissioners. Provides that a former spouse of an employee be offered the opportunity to continue benefits under the Consolidated Budget Reconciliation Act (COBRA). (CHAPTER 1118, STATUTES of 1996)

## HOMEOWNERS/EARTHQUAKE INSURANCE

AB 13 (McDonald)

California Earthquake Authority. Creates the California Earthquake Authority (CEA). Specifies that the CEA could not become operational until all of the following conditions were met: a) The Internal Revenue Service determined the CEA will be exempt from federal income tax; b) Insurers representing 75% of the homeowners' insurance market had filed letters of intent, with no binding contractual obligation, to participate; c) Insurers who will join CEA have submitted letters of intent, with no binding contractual obligation, for the required capital contributions; d) The CEA has obtained firm reinsurance commitments equal to or greater than 200% of the capital requirements of all committed insurers; e) Another statute is enacted allowing the CEA to become operational. (CHAPTER 944, STATUTES of 1995)

AB 1366 (Knowles)

Earthquake Coverage: Mini-Policy. Specifies in statute the minimum coverages an insurer must offer in an earthquake policy to satisfy the existing requirement that all insurers who sell homeowners' insurance must also offer earthquake insurance. This reduced coverage policy, called the "mini policy", has a 15 percent deductible, \$5,000 in contents coverage, and \$1,500 in additional living expenses. (CHAPTER 939, STATUTES of 1995)

AB 1754 (Knowles)

FAIR Plan Rates. Requires that rates charged by the FAIR Plan be "actuarially sound", as specified, and that premiums must be adequate to cover expected losses, expenses and taxes, and shall reflect investment income of the FAIR Plan. Also clarifies the definition of "policy of residential property insurance" as a policy that, at a minimum, shall insure against direct loss from the perils insured against in the

standard fire policy. States that policies that do include any of the perils insured against in a standard fire policy shall not be included in the definition of "policy of residential property insurance." (CHAPTER 807, STATUTES of 1996)

AB 2086 (Knowles)

California Earthquake Authority.

Creates, along with its companion bills SB 1993 (Calderon) and AB 3232 (Knowles) the California Earthquake Authority (CEA). The CEA is a privately funded, publicly managed earthquake insurance pool which will underwrite residential earthquake insurance for insurers who join the CEA. Some of the major CEA provisions contained in this bill are the composition and duties of the CEA Governing Board and Advisory Panel, procedures for small market share insurers to join the CEA, the CEA policyholder assessment, and the factors which the CEA must consider when setting rates. (CHAPTER 968, STATUTES of 1996)

AB 3232 (Knowles)

CEA Trailer Bill. Revises various aspects of the California Earthquake Authority (CEA) as set out in AB 2086 (Knowles) and SB 1993 (Calderon), including the amount of time insurers are subject to assessment, the notice to CEA policyholders if they are assessed, and the scientific information that may be used to set rates for CEA policies. (CHAPTER 969, STATUTES of 1996)

SB 395 (Rosenthal)

Retrofitting. Directs the Department of Insurance to establish a grant and loan program to support retrofitting of residential dwellings located in high risk seismic areas that are owned or occupied by low- and moderate-income households. While owner-occupied dwellings are to be eligible for both grants and loans, dwellings that are not owner-occupied are to be only eligible for loans. (CHAPTER 899, STATUTES of 1995)

SB 882 (Rosenthal)

Mediation. Requires the Department of Insurance to establish a pilot program



for the mediation of the disputes between insured claimants and insurers regarding the Northridge earthquake of 1994 or any subsequent earthquake. The program is to apply only to residential coverage but not apply (as determined by the department) to "major" coverage or purely legal interpretations, disputes regarding an agent's/broker's actions, or instances of insured's fraud/frivolous claim. (CHAPTER 848, STATUTES of 1995)

SB 1327 (Johnston)

Earthquake Risk Assessment. Provides that no person may use a geographically-based earthquake assessment system or program for the purpose of requiring earthquake insurance systems or programs, or imposing a fee or other conditions in lieu of earthquake insurance, in connection with a loan secured by a condominium project or an individual unit of a condominium project unless the analytical methods and assumptions of the risk assessment have been approved by the Insurance Commissioner. In determining whether to approve a submission, the commissioner is to consult with and consider the input of the State Geologist. (CHAPTER 54, STATUTES of 1996)

SB 1993 (Calderon)

California Earthquake Authority. Creates, along with its companion bills AB 2086 (Knowles) and AB 3232 (Knowles) the California Earthquake Authority (CEA). The CEA is a privately funded, publicly managed earthquake insurance pool which will underwrite residential earthquake insurance for insurers who join the CEA. Some of the major CEA provisions contained in this bill are the requirements the Insurance Commissioner must meet before the CEA may become operational, including the disclosure for consumers which will appear on CEA policies, various reporting requirements for the CEA, provisions regarding the sale of bonds to finance the CEA, the assessment on CEA member companies, and the loss assessment insurance policy which will be made available to condominium owners. (CHAPTER 967,

STATUTES of 1996)

## INSURANCE COMMISSIONER/REGULATORY

AB 1150 (Morrissey)

Informational Sheets. Requires the Insurance Commissioner, by January 1, 1997, to develop and distribute informational sheets printed in Spanish and Vietnamese which describe the basic terms used in passenger automobile and pickup truck liability insurance policies. Declares that the informational sheets are for informational use only, and in the case of a dispute between an insurer and an insured, the policy as it is written in English will prevail. The informational materials will be made available to any individual who requests them and are not required to be distributed by any agent, broker, or insurer. (CHAPTER 909, STATUTES of 1995)

AB 1692 (Johnson)

Reporting Requirements. Changes the reporting requirements for malpractice insurers to provide certain statistics to the Insurance Commissioner from an annual basis to an "as requested" basis. Additionally, the bill repeals provisions of the Insurance Code requiring the Department of Insurance to maintain a local government information and statistical analysis section in its organization for the purpose of collecting certain data from insurers. (CHAPTER 586, STATUTES of 1995)

AB 3137 (Miller)

Unclaimed Insurance Rebates. Provides that unclaimed Proposition 103 rebates that would otherwise escheat to the state General Fund, will be used to repay a \$14 million General Fund loan to the Department of Insurance. Unclaimed insurer dissolution and liquidation funds that would otherwise escheat to the state General Fund will be transferred to the department's Insurance Fund. Provides that the department may not raise exam fee revenues by more than \$2 million over the 1996-97 estimate in the Governor's 1996-97 budget. (CHAPTER 187, STATUTES

of 1996)

AB 3233 (Knowles)

Department of Insurance: Fees. Provides that any proposed fee increase by the Department of Insurance may not exceed 10% without the prior approval of the Legislature. (CHAPTER 349, STATUTES of 1996)

SB 87 (Kopp)

Attorney General: Legal Services. Prohibits the Insurance Commissioner from hiring counsel with respect to delinquency proceedings (proceedings commenced against an insurer for the purpose of liquidating, rehabilitating, reorganizing, or conserving that insurer) without the Attorney General's written consent. Allows the Attorney General to hire any legal counsel which he or she deems necessary to assist the Insurance Commissioner with such proceedings. Declares legislative intent that use of staff agency counsel should be encouraged if it is appropriate and consistent with the interests of the parties, and would result in cost savings to them. (CHAPTER 893, STATUTES of 1995)

SB 876 (Rosenthal)

Insurance Adjusters. Provides that in the event of an emergency situation declared by the commissioner, claims arising out of the emergency may be adjusted by a non-licensed adjuster acting under the direction, control, charge, or management of a licensed adjuster or insurer, would require the registration of the non-licensed adjuster, and would limit the authority to a period of 180 days unless renewed. Permits the commissioner to also issue restricted licenses subject to reasonable conditions and would specify that the unrestricted license is subject to suspension or revocation without a hearing or cause. Adds to the actions that constitute "dishonesty or fraud" for purposes of disciplinary actions against insurance adjusters, by adding impersonating a law enforcement officer or employee of the United States, a state, or political subdivision, or permitting or aiding and abetting that

impersonation. Becomes operative July 1, 1997. (CHAPTER 707, STATUTES of 1996)

SB 1862 (Johnson)

Obsolete Reports. Deletes several statutory requirements for reports on various insurance issues to be submitted by insurers, and the Insurance and Corporation Commissioners. (CHAPTER 571, STATUTES of 1996)

SB 5X (Rosenthal)

Flood Insurance. Requires the Insurance Commissioner to adopt regulations to promote the purchase and maintenance of flood insurance in flood-prone areas. Also specifies that the regulations adopted by the commissioner may recommend and encourage, but not require, groups under the jurisdiction of the DOI to promote the purchase and maintenance of flood insurance in flood prone areas. (CHAPTER 9, STATUTES of 1995-1996 First Extraordinary Session)

## INSURANCE CONTRACTS

AB 852 (Hoge)

Remedial Underwriting Actions. Provides that if a peer review committee of professional medical liability insurers recommends some remedial action for an insured physician and the terms are accepted by the physician but later violated, the policy may be cancelled midterm. (CHAPTER 600, STATUTES of 1995)

SB 306 (Rosenthal)

Notice of Nonrenewal. Requires that a notice of nonrenewal of an automobile insurance policy be delivered or mailed at least 30 days before policy expiration. Provides that if an insured declines a verbal offer of renewal, the insurer must deliver or mail to the insured written confirmation of the offer and rejection. Applies the notice of nonrenewal requirements applicable to automobile insurance to other insurance policies. Provides that an increase of premium on an individual life insurance policy that provides for premium changes by the insurer is not effective unless written notice is delivered to the policyholder, as specified. Provides when a cancellation or surrender of a life insurance policy is effective, as specified. (CHAPTER 791, STATUTES of 1995)

## INSURANCE COVERING LAND

AB 1611 (Archie-Hudson)

Mortgage Insurance. Redefines authorized real estate security to include, among other things, an instrument constituting a junior lien, which, when combined with all existing mortgage amounts does not exceed 97% of the fair market value of the real estate, provided that the loan securing the junior loan is an equity line of credit, with the full amount of the line of credit to be secured considered the amount of the loan. (CHAPTER 270, STATUTES of 1995)

SB 193 (Costa and O'Connell)

Insolvency: Escrow Accounts. Makes various technical changes regarding procedures for insolvent title companies including providing for payment of any deficiencies in an escrow or sub-escrow account if the Insurance Commissioner places an underwritten title company into bankruptcy, receivership, or conservatorship. (CHAPTER 408, STATUTES of 1995)

SB 907 (Polanco)

Underwritten Title Companies. Provides that holders of liens or encumbrances for purposes of title insurance regulation include certain institutional third parties, as specified. Provides that every person engaged in the business of preparing title searches, title examinations, title reports, and certificates of abstracts of title, upon which a title insurer writes title policies, is required to be licensed as an underwritten title company, as specified. (CHAPTER 433, STATUTES of 1995)

SB 1863 (Johnson)

Mortgage Insurance. Allows mortgage guarantee insurers to reinsure up to 30% of the total mortgage amount owed by a homebuyer. Allows mortgage guarantee insurers to obtain reinsurance from a sister insurance company that does not sell mortgage guarantee insurance, if it

meets specified financial criteria.  
(CHAPTER 407, STATUTES of 1996)



## LIABILITY AND WORKERS' COMPENSATION INSURANCE

AB 521 (Aguiar)

Tuberculosis: Presumption for Prison Guards. Mandates that prison guards, jail guards and correctional officers who are employed by a public agency be granted a presumption that if they are infected with tuberculosis (TB), the injury is automatically compensable under workers' compensation laws. (CHAPTER 802, STATUTES of 1996)

AB 891 (Rogan)

Criminal Prosecution. Provides that a determination of the facts by the Workers' Compensation Appeals Board in a workers' compensation dispute has no collateral estoppel effect on a subsequent criminal prosecution and does not preclude litigation of the same facts in a subsequent criminal proceeding. Under the legal doctrine of collateral estoppel, an issue which has been fully litigated and resolved by a court in a final judgment on the merits generally cannot be litigated again. (CHAPTER 158, STATUTES of 1995)

AB 914 (Cunneen and Weggeland)

Employer Agreements. Provides that an employer may secure the payment of compensation on employees provided to it by agreement by another employer by entering into a valid and enforceable agreement with that other employer under which the other employer agrees to obtain, and has, in fact, obtained workers' compensation for those employees. Specifies that employers who have complied with this requirement shall not be subject to penalties for failure to provide workers' compensation coverage or tort liability in the event of employee injury. (CHAPTER 800, STATUTES of 1995)

AB 1002 (Burton)

Acupuncturists. Provides that acupuncturists would continue to be considered "physicians" for the purpose of treating, without referral, injured workers eligible for workers'

compensation benefits until January 1, 1999. (CHAPTER 26, STATUTES of 1996)

AB 1609 (Brewer)

Insurer Reporting Requirements. Requires an insurer to report certain events as corrections of revisions of losses pursuant to the unit statistical plan and uniform experience rating plan approved by the Insurance Commissioner. (CHAPTER 161, STATUTES of 1995)

AB 1650 (Morrissey)

Notice to Injured Workers. Permits an insurer or self-insured employer to provide a specified notice to an injured worker on or with a check for temporary disability benefits that warns the worker that receiving the benefits, under certain fraudulent circumstances, could result in the loss of workers' compensation benefits, fines, and criminal prosecution. (CHAPTER 1005, STATUTES of 1996)

AB 1655 (Hannigan)

Sports Officials. Provides that a person who performs services as a neutral sports official such as an umpire, referee, scorekeeper, timekeeper or judge for a interschool event or for a public agency, or private organization sponsoring an amateur sports event, is not to be deemed an employee for the purposes of workers' compensation laws. (CHAPTER 725, STATUTES of 1995)

AB 1753 (Knowles)

Approval of Policy Forms. Requires the State Compensation Insurance Fund to adhere to the same requirements regarding the nonrenewal of policies that other workers' compensation insurers must follow. Requires the rating organizations to provide compensation for the policyholder ombudsman and necessary staff. Provides that a workers' compensation insurance policy or endorsement shall not be issued by an insurer unless a copy of the form or endorsement is filed with the rating organization, and the Insurance Commissioner either gives written approval to the form or endorsement or 30 days expire from the date the form or endorsement is received by the

commissioner from the rating organization, without notice to the insurer, as specified. (CHAPTER 582, STATUTES of 1995)

AB 1968 (McDonald)

Qualified Medical Evaluators. Makes various changes to the certification of Qualified Medical Examiners (QME) by the Industrial Medical Council. Authorizes the Industrial Medical Council to suspend or terminate a medical evaluator without a hearing if the evaluator's license to practice in California is suspended, revoked, or terminated, as specified, or if the evaluator fails to pay a required fee. Provides that a report prepared by a QME that is not complete prior to the date of conviction or date of action against the license of the evaluator is not to be admissible in a proceeding before the Workers' Compensation Appeals Board. Provides that there is no liability to pay for the report or for associated expenses incurred by the evaluator. (CHAPTER 319, STATUTES of 1995)

SB 247 (Peace)

Bureau of Fraudulent Claims. Provides that if the Bureau of Fraudulent Claims within the Department of Insurance does not use all of the funds made available to it in the fiscal year, the unexpended funds may be distributed to district attorneys to fight workers' compensation fraud. Provides that the money may not be transferred to the General Fund. (CHAPTER 168, STATUTES of 1995)

SB 619 (Peace)

Job Shadowing. Specifies that students engaged in "job shadowing" are covered by the workers' compensation policy of the supervising school entity. Requires the Administrative Director of the Division of Workers' Compensation to prepare and issue the required report on the collective bargaining and alternative workers' compensation program on an annual basis. Requires the Department of Insurance to report annually to the Legislature and the Fraud Assessment Commission on the activities of the Bureau of Fraudulent Claims and the

District Attorneys receiving the allocated funds. (CHAPTER 886, STATUTES of 1995)

SB 658 (Peace)

Tuberculosis: Presumption for Firefighters. Provides that if tuberculosis (TB) develops or is manifested during the period that a firefighter is in the service of his or her employer, it is presumed to be compensable for purposes of workers' compensation benefits unless controverted by other evidence. Allows the TB presumption to be extended to a firefighter following termination of service for a period of three calendar months for each full year of the requisite service, but not to exceed 60 months in any circumstance, commencing with the last date actually worked in the specified capacity. (CHAPTER 683, STATUTES of 1995)

SB 680 (Peace)

Reinsurance of Injuries. Extends the requirement to post a bond or security deposit to insurers who desire to reinsure injuries, disability or death portions of policies of workers' compensation insurance under the class of disability insurance. (CHAPTER 148, STATUTES of 1995)

SB 682 (Peace)

Fraud: Investigations. Requires the State Bar, the Medical Board, and the Board of Chiropractic Examiners to investigate and report to the Department of Insurance and the Legislature on possible fraudulent activities relating to workers' compensation. (CHAPTER 167, STATUTES of 1995)

SB 996 (Lockyer and Leonard)

Targeted Inspection and Consultation Programs. Modifies procedures for collecting employer assessments to fund the targeted inspection and consultation programs. Under the new procedures, the Director of the Department of Industrial Relations shall determine the overall annual amount necessary to fund the programs. Funding is provided through an assessment paid by employers depending on the amount of their annual payroll and as

specified in a fee schedule ranging from \$100 to \$2,500. Creates the Loss Control Certification Program subaccount within the Cal-OSHA Targeted Inspection and Consultation Fund, and provides that the fees paid by workers' compensation insurers for the certification of occupational safety and health loss control consultation services are to be deposited in that subaccount, for appropriation as specified. (CHAPTER 33, STATUTES of 1995)

SB 1051 (Solis)

Loss Control Certification Program.  
Creates the Loss Control Certification Fund in the State Treasury, and would provide that the fees paid by workers' compensation insurers for the certification of occupational safety and health loss consultation services are to be deposited in that fund. Authorizes the Department of Industrial Relations to grant exemptions, exceptions, and extensions from the certification requirements, as specified. (CHAPTER 556, STATUTES of 1995)

SB 1053 (Solis)

Fraudulent Reporting of Payroll.  
Provides that it is unlawful to make or cause to be made any knowingly false or fraudulent statement of any fact material to the determination of the premium, rate or cost of any policy of workers' compensation insurance for the purpose of reducing the premium, rate or cost of the insurance. Permits, specifically, the investigation of fraudulent reporting of payroll or facts to obtain insurance at an improper rate. Declares that the fraud assessments are not taxes, and provides that any surplus assessments or fees, penalties, restitutions or recoveries made as a result of the prosecution of workers' compensation fraud are not to be deemed "unexpended" funds for any purpose. Provides that any surplus funds may be used to offset the cost of the program in the subsequent year. (CHAPTER 885, STATUTES of 1995)

SB 1087 (Polanco)

Rating Organizations: Nonrenewal Policies. Provides that a notice of

nonrenewal is not required if the insured has made a written offer to the insured, within 30-120 days in advance of the end of the policy period, to renew the policy at a premium rate increase of less than 25 percent. Provides that if a change in a classification assignment is due to an insured's change of operations, any premium change would become effective on the date of the change of operations. (CHAPTER 375, STATUTES of 1995)

SB 2032 (Mountjoy)

Indemnity Agreements. Provides that an additional insured endorsement in a construction contract with a public agency is invalid and unenforceable as to the agency's active negligence. A construction contract that purports to require the contractor to procure insurance that would cover the active negligence of the public agency, is invalid. (CHAPTER 558, STATUTES of 1996)

## LIFE AND DISABILITY INSURANCE

- AB 293 (Hoge)      Premiums. Changes the determination of when a life insurance policy has been received from six months after the insured has paid premiums to six months after premiums have been paid. This is an important clarification because sometimes the insured is not the premium payer. (CHAPTER 686, STATUTES of 1996)
- AB 475 (W. Murray)      Funeral Insurance. Permits the sale of limited death benefit insurance contracts and prohibits the limited death benefit period from exceeding 2 years. Limited death benefit insurance contracts are life insurance policies that do not require the policyholder to pass a health exam to obtain coverage. (CHAPTER 340, STATUTES of 1995)
- AB 3234 (Knowles)      Policy Illustrations. Provides that life insurance policy sales illustrations must comply with the model regulations of the National Association of Insurance Commissioners' (NAIC). Requires life insurers to provide prospective customers with a buyer's guide before accepting the applicant's initial premium payment. Allows life insurers to present the Surrender Cost Index or the Life Insurance Net Payment Cost Index to potential insureds to calculate the surrender value of the policy. (CHAPTER 1106, STATUTES of 1996)
- SB 188 (Russell)      Separate Accounts. Provides technical corrections to Chapter 1076, Statutes of 1994, regarding guaranteed investment contracts. Authorizes specified life insurers to issue guaranteed book value benefit products. (CHAPTER 419, STATUTES of 1995)
- SB 191 (Lewis)      Fraternal Benefit Societies. Conforms the benefits and policies a fraternal benefit society may offer to its members to those offered by traditional life and disability insurers. Also subjects

fraternal benefit societies to fiscal review by the Insurance Commissioner. (CHAPTER 166, STATUTES of 1995)

- SB 915 (Committee on Insurance) Exemptions. This bill is a technical clean-up measure which corrects Insurance Code references to sections which exempt group disability insurance from certain Insurance Code provisions. (CHAPTER 94, STATUTES of 1995)
- SB 925 (Costa) Lodge System: Death Benefits. Increases the maximum permissible death benefit that can be offered by a lodge to its members from \$1,000 to \$5,000. (CHAPTER 391, STATUTES of 1996)
- SB 1324 (Committee on Insurance) Right of Return. Requires insurers who sell life insurance subject to a right of return and cancellation to deliver the policy to the purchaser by the following options: a) registered or certified mail, b) personal delivery, with a signed, written receipt of delivery, c) first-class mail, with a signed written receipt of delivery, or other reasonable means, as determined by the Insurance Commissioner. (CHAPTER 448, STATUTES of 1995)
- SB 1739 (Russell) Mutual Insurers: Conversions. Creates a method for mutual life insurers to convert to a stock life insurer without requiring that policyholders lose their membership interest in the insurer. (CHAPTER 406, STATUTES of 1996)



## STATE DISABILITY AND UNEMPLOYMENT INSURANCE

- AB 212 (Johnson)      False Identification. Specifies that it is a misdemeanor to use a false name, false social security number, or other false identification to obtain, increase, reduce, or defeat any unemployment insurance benefit. (CHAPTER 397, STATUTES of 1995)
- AB 272 (Kuykendall)      Employment Taxes and Contributions: Disability Insurance Benefits. Adds sales presentations of services in the home to the list of services that are exempted from wage withholdings and employer payments. Provides that taxes, interest, additions to taxes or penalties assessed against an employer may be relieved if the failure to make a timely payment is due to an employer's reasonable reliance on written advice from the Employment Development Department (EDD). Requires the EDD to develop and implement a taxpayer education and information program. Permits the EDD to recommend to the Unemployment Insurance Appeals Board a settlement of any civil employment tax matter dispute. Repeals certain waivers related to the waiting period for disability insurance benefits. (CHAPTER 541, STATUTES of 1995)
- AB 1821 (Battin)      Determination of Claims. Provides that unemployment compensation benefits paid to a claimant who left the employer's employ to take a substantially better job are not chargeable to the account of the employer, except as specified. (CHAPTER 383, STATUTES of 1995)
- AB 2979 (Speier)      Employers of Domestic Service Workers. Allows employers of domestic service workers to file information required by the Employment Development Department by telephone, and to pay required employer contributions by credit card. Becomes effective July 1, 1997. (CHAPTER 255, STATUTES of 1996)

SB 1157 (Mountjoy)

Charges to Employer. Provides that unemployment compensation benefits paid to a claimant who left the employer's employ to take a substantially better job are not chargeable to the account of the employers, except as specified. (CHAPTER 172, STATUTES of 1995)

SB 1682 (Johnston)

Disability Insurance: Refunds. Requires the Employment Development Department (EDD) to identify employees who have overpaid state disability insurance (SDI) contributions since 1993, and to issue refunds due to them by October 15, 1997, with interest. Requires the EDD to continue to refund overpaid SDI contributions in the future, with interest. (CHAPTER 1157, STATUTES of 1996)

SB 1843 (Solis)

Penalties for Money Laundering. Assesses a penalty against persons or business entities that launder money on behalf of an employer, for the purpose of assisting the employer in evading the payment of required taxes to the Employment Development Department. The penalty shall be in the amount of 100% of the taxes due. (CHAPTER 1116, STATUTES of 1996)

## **SURPLUS LINES**

AB 328 (Knowles)

Posting of Bonds. Provides a court with additional discretion in requiring the posting of a bond in actions against nonadmitted insurers and reinsurers. (CHAPTER 687, STATUTES of 1996)

AB 842 (Hoge)

Export List. Authorizes the Insurance Commissioner to establish an export list identifying the lines of insurance that are currently not available from admitted insurers. A public hearing is required to be held at least annually to determine the lines of insurance that can be included in the export list. Specifies that the list may not include automobile insurance, homeowners' insurance, or any insurance policy written by the California FAIR Plan. (CHAPTER 588, STATUTES of 1995)

AB 1307 (Cunneen)

Surplus Line Brokers: Annual Statements. Changes the date on which surplus lines brokers must file an annual sworn statement with the Department of Insurance regarding business transacted during the proceeding year from April 1 to March 1 and makes related technical changes to procedures regarding surplus lines brokers. Provides that payment of taxes by an insurer is deemed complete on the date the electronic funds transfer is initiated if settlement occurs on or before, rather than before, the banking day following the date the transfer is initiated. Specifies that certain deficiency assessment appeal provisions with respect to insurers are applicable to surplus line brokers. (CHAPTER 721, STATUTES of 1995)

AB 2869 (Brewer)

Surplus Line Brokers. Provides that surplus line brokers may issue insurance policies on behalf of eligible nonadmitted insurers, where the broker has received prior written authority from the insurer. Such brokers may also issue evidence of coverage with nonadmitted

insurers, including binders and  
covernotes. (CHAPTER 905, STATUTES of  
1996)

SB 1906 (Johnston)

Syndicates. Provides that the Department  
of Insurance has the statutory authority  
to ensure that syndicates under Lloyd's  
of London maintain adequate trust fund  
agreements. (CHAPTER 1034, STATUTES of  
1996)

## VETOED BILLS

AB 115 (K. Murray)

California Earthquake Authority: Governing Board. Would have expanded the California Earthquake Authority Governing Board from three to five members, consisting of the Governor, the Treasurer, the Insurance Commissioner, a member appointed by the Speaker of the Assembly selected from four persons nominated by the Southern California Association of Governments, and a member selected by the Chairperson of the Senate Rules Committee selected from four persons nominated by the Association of Bay Area Governments.

In his veto message, Governor Wilson stated that this bill would have, if enacted, inappropriately expanded the role of the Legislature into the functions of the Executive branch of government. He further added that according to the State Insurance Commissioner, this bill would have, if enacted, jeopardized the tax-exempt status of the CEA because appointments of individuals who are not employees of any state or local agency would be a violation of the tax-exemption ruling.

SB 145 (Rosenthal)

Leave of Absence Benefit. Would have extended a special workers' compensation benefit of a leave of absence without loss of salary to district or authority peace officers whose injuries were a direct consequence of a violent act perpetrated upon their person or occurring during the performance of duties that were particularly hazardous and dangerous.

In his veto message, Governor Wilson cited SB 1034, Statutes of 1994, which provides that California State University Police Officers who elect a paid leave of absence may receive their full net pay, but not their entire gross pay tax free. Governor Wilson said that SB 145 does not

impose such a limitation and it should.

SB 376 (Rosenthal)

Reporting Requirements. Would have required the Insurance Commissioner to issue a report to the Governor and the Legislature containing an annual workplan that identified and described major regulatory, legislative and other significant initiatives that the commissioner intended to direct the department to pursue in that calendar year. The bill would have deleted a reporting requirement that generally duplicates existing law.

In his veto message, Governor Wilson stated that this bill attempts to micro-manage the duties of a Constitutional officer. The information requested in this bill is already provided through legislative or public hearings presently required by the Administrative Procedures Act. Any information not provided in a legislative or administrative forum can be requested at any time from the Commissioner.

SB 1732 (Rosenthal)

Health Care Service Plans: Quality of Care Report Cards. Would have required the Department of Corporations to release a composite report for each health care service plan and place the report on the Internet.

In his veto message, Governor Wilson stated that he had recently signed AB 2343 (Richter), Statutes of 1996, which requires the Governor to establish a task force to research and report on certain aspects of managed care by January 1, 1998. The objective of SB 1732 could be the subject of the issues discussed by that task force. The Governor said that he will urge the task force to evaluate the use of "report cards" on HMOs currently used in the private sector and to investigate whether government has a role in this process.

SB 2044 (Rosenthal)

Medicare Supplement Policies. Would have conformed current law regulating Medicare supplement policies to the newly-revised

standards developed by the National Association of Insurance Commissioners.

In his veto message, Governor Wilson stated that this bill was introduced to conform California law to new federal requirements on Medicare supplement health insurance coverage. However, late in the process a controversial amendment was added to the bill that goes far beyond federal law. Governor Wilson suggested that a bill that contains non-controversial or consensus provisions be returned to him for a signature.

NOTE: After the veto of SB 2044, the Legislature placed the non-controversial provisions of SB 2044 into SB 2043 (Rosenthal). Governor Wilson signed SB 2043 into law.

**I. INFORMATIONAL HEARING ON THE HOMEOWNERS AND EARTHQUAKE INSURANCE MARKET IN CALIFORNIA**

Date: March 21, 1995

At the time of the hearing, insurers representing 70 percent of the California homeowner's insurance market had either severely restricted sales of new policies or stopped offering them entirely. The main reason for this shortage is a state law which requires insurance companies who wish to sell homeowner's policies to offer earthquake insurance as well.

Assemblyman David Knowles' first act as Chairman of the Insurance Committee was to hold an informational hearing in order to educate committee members and the public as to the reasons for the deterioration of the homeowner's/earthquake insurance market.

Testimony was taken from Insurance Commissioner Chuck Quackenbush, as well as representatives from the insurance industry, consumer groups, and disaster modeling firms. The consensus of these groups was that the unexpectedly high damage costs from the Northridge earthquake had caused insurers to reassess their exposure to earthquake losses and were unable to accept more risk.

Outcome: To deal with the problems highlighted by the hearing Chairman Knowles introduced AB 1366, which was later signed into law by Governor Wilson. This bill allows insurers to offer more economical earthquake insurance policies in order to make earthquake and homeowner's insurance more available.

**II. REVIEW OF THE WORKERS' COMPENSATION REFORM LEGISLATION OF 1993**

Date: March 28, 1995

Effective January 1, 1995, the minimum rate law was replaced by an open rating system which allows the competitive marketplace to determine the appropriate price of workers' compensation policies. Initial newspaper reports indicated that premiums paid by insured employers in California had dropped from \$9 billion in 1993 to a projected \$5.5 billion by the end of 1995.

The committee took testimony from representatives of the California Workers' Compensation Institute (CWCI), employers, insurance companies, applicant attorneys, and labor unions. The committee focused on the question of whether the legislative reforms of 1993 and/or other important factors, such as the recession and previous anti-fraud efforts, were responsible for the dramatic reduction in premiums.

Testimony was provided that showed that in six other states,



which replaced their minimum rate laws with an open rating system, premiums eventually rose to reflect real costs within their workers' compensation systems. A number of witnesses told committee members that there is a major disconnection between the current price of workers' compensation policies, which is a long-term commitment to pay claims, and the real costs in the system. It was also noted that the 1993 reforms have failed to contain medical treatment costs.

Outcome: Background information on the current status of the workers' compensation system was provided to members of the committee.

### **III. JOINT HEARING OF THE SENATE JUDICIARY COMMITTEE AND THE ASSEMBLY INSURANCE AND JUDICIARY COMMITTEES ON PROPOSITION 200**

Date: February 15, 1996

Proposition 200, which proposed the enactment of a first party insurance plan for personal injuries suffered in automobile accidents, commonly known as no-fault, qualified for the March 26, 1996 ballot.

The committee took testimony from the sponsor of the initiative, the Alliance to Revitalize California, and from opponents, the Consumer Attorneys of California.

Outcome: Pursuant to Elections Code Section 9034, the relevant policy committees of each house are required to hold a joint public hearing on initiatives which qualify for the ballot. The hearing on Proposition 200 was held to comply with the statutory requirement.

### **IV. INFORMATIONAL HEARING ON THE CALIFORNIA EARTHQUAKE AUTHORITY**

Date: February 27, 1996

The California Earthquake Authority (CEA) was created by AB 13 (McDonald), Statutes of 1995, but it required that additional legislation be enacted and certain criteria be met by the Insurance Commissioner before the CEA could become operational. The Assembly Insurance Committee held an informational hearing to determine the progress the Commissioner had made thus far in meeting the criteria and to discuss the first draft of the legislation which would allow the CEA to begin operating.

The Committee heard testimony from Commissioner Quackenbush, Dr. Jim Jackson, President of EQECAT, the earthquake modeling firm which helped develop the CEA's rating plan, Jack Graham, Vice President of E.W. Blanch, the reinsurance firm which was

responsible for obtaining reinsurance contracts for the CEA, and Cheryl Hines, Vice President of Morgan Stanley Co., that structured the bond financing from the private capital markets for the CEA. In addition, the Committee heard testimony from various proponents and opponents of the CEA proposal.

Outcome: It was determined that the Commissioner had either met or was near completing all of the statutory goals which were required by AB 13.

**V. INFORMATIONAL HEARING ON THE DELIVERY OF PERMANENT PARTIAL DISABILITY BENEFITS TO INJURED WORKERS IN CALIFORNIA; OPTIONS FOR REFORM**

Date: March 5, 1996

The purpose of the informational hearing was to give committee members an opportunity to examine whether California's current Permanent Partial Disability (PPD) system, which was designed during the Industrial Age (1913), is meeting the needs of workers and employers in the Information Age and whether systemic reforms are needed.

California's current PPD system has been criticized for being overly litigious, complex, unpredictable, expensive, and inequitable to injured workers with permanent disabilities. Since California allows permanent disability determinations to be modified by purely subjective factors, reports by a worker to an evaluating physician that cannot be verified by laboratory and diagnostic tests, uncertainty and litigation are introduced into the system. Excessive litigation in the PPD system is not necessary and only serves to siphon away dollars that could be better used to directly benefit workers and employers.

Testimony was taken from Mr. Casey Young, Administrative Director of the Division of Workers' Compensation, injured workers, employers, insurers, physicians, applicants attorneys, and labor unions.

Testimony focused on whether the use of more objective standards to measure a worker's level of impairment and loss of function, such as the American Medical Association's "Guides to the Evaluation of Permanent Impairment," would result in a PPD system that benefits both workers and employers.

Committee members were also given a demonstration by Ms. Christine Caldwell, CEO of Wholeperson Technologies, Inc., and Dr. Randy SooHoo, Director of the Arizona Department of Disability, on how laptop computers and innovative software technology can be used by physicians to obtain more accurate impairment determinations.

Outcome: Assemblyman Knowles introduced AB 2540 which proposed that a worker's disability be determined based on a combination of use of the AMA Guides and a standardized and objective functional capacity evaluation.

**VI. INTERIM HEARING ON HOW THE STATE GOVERNMENT SHOULD BE ORGANIZED TO REGULATE PRIVATE HEALTH INSURANCE AND MANAGED CARE PLANS**

Date: September 9, 1996

On August 6, 1996, the Assembly Insurance Committee voted 16-0 to conduct a study of SB 705 (Peace), which proposed to transfer the authority to license and regulate health care service plans and specialized plans from the Department of Corporations to the Department of Insurance. During the hearing on this measure, it became clear that the larger question concerning how the state government should be organized to regulate private health insurance and managed care plans is complex and should be examined in more detail by the committee.

The committee took witness testimony from three panels. On Panel I, John Knox and Barry Keene, authors of the Knox-Keene Health Care Service Act of 1975, described the debates and decisions that were made by the Legislature in crafting the Act. On Panel II, representatives from the Departments of Corporations, Health Services, Insurance, Division of Workers' Compensation, Managed Risk Medical Insurance Board, and the Medical Board described for members how they regulate or otherwise interact with health insurers and managed care plans. On Panel III, representatives from insurers and health plans, provider organizations, and employers gave their views on the current regulatory structure and possible ways to improve it.

Outcome: Background information and testimony was provided to members on how the state is currently organized to regulate health insurers. This background information could prove to be useful to members if one or more bills are introduced during the 1996-97 session that seeks to alter the current regulatory structure.

**VII. JOINT HEARING OF THE ASSEMBLY HEALTH AND INSURANCE COMMITTEES ON PROPOSITIONS 214 AND 216**

Date: October 1, 1996

The Assembly Insurance Committee and Assembly Health Committee held an informational hearing on Propositions 214 and 216, as required by law. Proposition 214, the "Health Care Patient Protection Act of 1996" and Proposition 216, the "Patient Protection Act," would prohibit health care businesses from:

discouraging health care professionals from informing patient or advocating for treatment; offering incentives for withholding care; and refusing services recommended by a physician or nurse without examination by the businesses' own professional. The initiatives would also require health care businesses to: make tax returns and other financial information public; disclose certain financial information to consumers including administrative costs; establish criteria for authorizing or denying payments; and provide for minimum safe and adequate staffing of health care facilities.

In addition, Proposition 216 would assess taxes on health care businesses for certain downsizings, mergers, and conversions to for-profit status and would establish a non-profit corporation to advocate for health care consumers.

The committees took testimony from the sponsors of Propositions 214 and 216, the Service Employees International Union (SEIU), the California Nurses Association, the Legislative Analyst Office (LAO), and the opponents of both initiatives, "Taxpayers Against Higher Health Costs."

Outcome: Election Code Section 9034 requires the relevant policy committees in each house to hold a public hearing on ballot propositions. The joint hearing on Propositions 214 and 216 fulfilled this legislative mandate.

#### **VIII. JOINT HEARING OF THE SENATE AND ASSEMBLY JUDICIARY AND ASSEMBLY INSURANCE ON PROPOSITION 213, "THE PERSONAL RESPONSIBILITY ACT OF 1996"**

Date: October 1, 1996

Proposition 213, which would enact certain restrictions on the right to sue for personal injury damages, qualified for the November 5, 1996 ballot. Specifically, the initiative would bar drunk drivers and uninsured motorists from recovering noneconomic or "pain and suffering" damages from an at-fault driver, and would prohibit convicted felons from recovering any damages caused by the negligent conduct of another, for injuries sustained while committing the crime or fleeing from the crime scene.

The committees took testimony from supporters, including Insurance Commissioner Chuck Quackenbush, Chair of "Californians for Personal Responsibility," and from opponents, including The Greenlining Institute.

Outcome: Pursuant to Elections Code Section 9034, the relevant policy committees of each house are required to hold a

joint public hearing on initiatives which qualify for the ballot. The hearing on Proposition 213 was held to comply with the statutory requirement.