



REGULATORY AGENCY ACTION

posed modifications; and that a copy of the franchise contract or document which embodies the modifications be attached.

New section 310.120 would provide that a franchise offering is duly registered for a period to expire 110 days from the end of its next fiscal year, unless the Commissioner by order specifies a different period.

In a separate rulemaking announcement, the Commissioner proposed two other changes to regulatory provisions implementing the Franchise Investment Law. New section 310.100.2 would create a new exemption from the registration requirements of section 31110 for the sale of a franchise, provided certain conditions are met: (1) the initial offering must be the registered offer; (2) the prospective franchisee must have the capacity to protect its own interests in connection with the transaction; (3) either the subjects are limited to specified subjects or the prospective franchisee meets specified financial or experience requirements; (4) the offering circular discloses the items which may be negotiated; (5) the offering circular discloses that copies of any Notice of Negotiated Sale of Franchise may be reviewed at any Department office or, upon request, will be furnished by the franchisor; (6) a Notice of Negotiated Sale of Franchise is filed with the Commissioner within fifteen business days after the negotiated sales; and (7) the franchisor certifies in an appendix to its renewal application that all Notices have been filed. Amended section 310.122 would require the franchisor exempt under section 310.100.2 to certify that all required Notices of Negotiated Sale of Franchises have been filed with the Commissioner.

The Commissioner accepted written comments on these proposed regulations until January 6.

Regulatory Changes Under the Corporate Securities Law. The Commissioner recently announced proposed changes to the Department's regulations under the Corporate Securities Law of 1968 relating to semi-annual reports and investment adviser examination requirements. Following a comment period, the Commissioner adopted the following changes; the Office of Administrative Law approved them on January 10.

Currently, section 260.146, Title 10 of the CCR, exempts from the semi-annual reporting requirement of section 25146 of the Corporate Securities Law any issuer filing reports pursuant to section 15(d) (15 U.S.C. section 78o(d)) of the Securities Exchange Act of 1934. The Commissioner has expanded this

exemption to include any issuer filing reports to section 13 (15 U.S.C. section 78m) of the Act.

Section 260.236 of the Department's regulations currently exempts from the examination or experience requirements imposed on applicants for an investment adviser's certificate (and their associated persons) any applicant or associated person who has been engaged as a portfolio manager or securities analyst in the banking, insurance, or securities industry for three or more of the five years immediately preceding the application. The Commissioner has limited this exclusion to investment adviser applicants and their associated persons engaged as a portfolio manager or securities analyst in the banking, insurance, or securities industry of the United States for three of the preceding five years.

Enforcement. On October 6, the Los Angeles Superior Court entered a preliminary injunction against First Alliance Mortgage Company (FAMCO), pending a trial for a permanent injunction, restitution, and civil penalties. The order enjoins FAMCO from violating the Holden Act, which prohibits discriminatory real estate lending practices. FAMCO is alleged to have engaged in a pattern of racial discrimination over a period of years, by refusing to make loans in certain black neighborhoods, and by charging higher interest rates, reducing the loan-to-value ratio, and limiting the duration of loans in neighborhoods which were more than 30% black.

Consumer Alert Warning. The Department recently issued a consumer alert warning about cellular phone lottery filing abuses. In this new investment scam, high pressure telephone salespeople urge participation in the federal lottery which is now awarding licenses for almost 500 cellular telephone areas around the country. Investors are charged up to \$2,000 by a service promising a 99% chance of winning the cellular telephone license for a rural area not presently covered. Vast fortunes are predicted, when in fact most areas for which licenses are being awarded are unlikely to ever turn a profit.

LEGISLATION:

AB 10 (Hauser) would create the California Health Insurance Program within the state Department of Health Services, to arrange for the provision of health services through various approved public and private health insurance plans. It will establish a California Health Insurance Program Commission consisting of 17 members appointed by the Speaker

of the Assembly, the Senate Rules Committee, and the Governor. The bill would authorize the imposition of premiums on employees and employers and would provide for state subsidies of certain premiums imposed on certain individuals who cannot meet the premium costs. This bill is pending in the Assembly Finance and Insurance Committee.

AB 27 (Johnston) would prohibit disability insurers, nonprofit hospital service plans, and health care service plans from requiring an applicant for hospital, medical, or surgical coverage, as a condition of obtaining that coverage, to first qualify for life or disability loss of income insurance by being tested for HIV antibodies. This bill is pending in the Assembly Finance and Insurance Committee.

AB 60 (Isenberg) would establish the California Catastrophic Health Insurance Program administered by an appointed board, to provide adequate health insurance for those California residents who are not otherwise able to obtain it. The bill would provide for scope of coverage, rate limitations, method of operation, and subscriber eligibility and enrollment. This bill is pending in the Assembly Finance and Insurance Committee.

SB 6 (Robbins) would create the California Health Coverage Association for the purpose of providing catastrophic and basic health care coverage to defined eligible persons and employers commencing January 1, 1991. This bill would provide for an appointed board of directors of the nonprofit association. SB 6 would limit the basic health care benefits payable by the association to \$40,000 per year and catastrophic benefits to a \$500,000 lifetime maximum, would prescribe eligible benefits, and would require payments of deductibles and co-payments by insurers. This bill is pending in the Senate Committee on Insurance, Claims and Corporations.

DEPARTMENT OF INSURANCE

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Insurance is the only interstate business wholly regulated by the several states, rather than by the federal government. In California, this responsibility rests with the Department of Insurance (DOI), organized in 1868 and headed by the Insurance Commissioner. Insurance



Codes sections 12919 through 12931 provide for the Commissioner's powers and duties. Authorization for the Insurance Department is found in section 12906 of the 800-page Insurance Code.

The Department's designated purpose is to regulate the insurance industry in order to protect policyholders. Such regulation includes the licensing of agents and brokers and the admission of insurers to sell in the state.

In California, the Insurance Commissioner licenses 1,300 insurance companies, which carry premiums of approximately \$26 billion annually. Of these, 650 specialize in writing life and/or accident and health policies.

In addition to its licensing function, the DOI is the principal agency involved in the collection of annual taxes paid by the insurance industry. The Department also collects over 120 different fees levied against insurance producers and companies.

The Department also performs the following functions:

(1) regulates insurance companies for solvency by tri-annually auditing all domestic insurance companies and by selectively participating in the auditing of other companies licensed in California but organized in another state or foreign country;

(2) grants or denies security permits and other types of formal authorizations to applying insurance and title companies;

(3) reviews formally and approves or disapproves tens of thousands of insurance policies and related forms annually as required by statute, principally related to accident and health, workers' compensation and group life insurance;

(4) establishes rates and rules for workers' compensation insurance;

(5) regulates compliance with the general rating law. Rates generally are not set by the Department, but through open competition under the provisions of Insurance Code sections 1850 *et seq.*; and

(6) becomes the receiver of an insurance company in financial or other significant difficulties.

Through the California Insurance Code, the Commissioner has the power to order a carrier to stop doing business within the state, but does not have the power to force a carrier to pay a claim, a power reserved to the courts. The Commissioner may hold an administrative hearing to determine whether a particular broker or carrier is complying with state law.

The Commissioner is aided by a staff of over 500, located in San Diego, Sac-

ramento, Los Angeles and San Francisco, the Department's headquarters. The Commissioner directs ten functional divisions and bureaus, including the recently reestablished Consumer Affairs Division. This division has been expanded and now includes the Rate Regulation Division. The Consumer Affairs Division is specifically designed to make the DOI accessible to consumers and more accountable to their needs and questions.

The Consumer Service Bureau (CSB) is part of the Consumer Affairs Division and handles daily consumer inquiries. CSB receives over 300 calls each day. Almost 50% of those calls result in the mailing of a complaint form to the consumer. Depending on the nature of the returned complaint, it is then referred to policy services, investigation or CSB.

Since 1979, the Department has maintained the Bureau of Fraudulent Claims, charged with investigation of suspected fraud by claimants. The California insurance industry claims losses of more than \$100 million annually to such claims. Licensees pay an annual fee of \$150 to fund the Bureau's activities.

A Consumer Advisory Panel has been named by the Commissioner as an internal advisor to the Department of Insurance. The panel advises the Department on methods of improving existing services and on the creation of new services. It also assists in the development and distribution of consumer information and educational materials.

MAJOR PROJECTS:

Proposition 103 Passes. On November 8, the voters approved Proposition 103, the "Voter Revolt to Cut Insurance Rates" initiative sponsored by consumer advocate Ralph Nader and the Access to Justice Foundation. The other three insurance reform initiatives (Propositions 100, 101, and 104) were soundly defeated—as was Proposition 106, the insurance industry's attempt to limit attorney contingency fees in tort cases. (See CRLR Vol. 8, No. 4 (Fall 1988) pp. 85-86 for a complete description of all insurance initiatives on the November 1988 ballot; for detailed information on the provisions of Proposition 103, see *infra* LEGISLATION.)

On November 9, the insurance industry filed several actions in the California Supreme Court to invalidate Proposition 103. On November 10, the Court stayed implementation of all provisions of the initiative; however, on December 7, at the request of Attorney General John Van de Kamp and the proponents of Proposition 103, the Court lifted its stay

as to all provisions except those requiring (1) an immediate 20% rate rollback, and (2) insertion of notices regarding the nonprofit consumer advocacy organization in insurers' billing envelopes. At this writing, all other provisions of Proposition 103 are fully effective. Oral argument in the industry's actions has been scheduled for March 7. (For further information, see *supra* report on ACCESS TO JUSTICE FOUNDATION; see *infra* LITIGATION.)

Department Cites Insurers for Violation of Proposition 103. In December, DOI issued a notice of noncompliance to four subsidiaries of the Travelers Insurance Group for refusing without cause to renew private passenger automobile policies in California. The four companies affected by the order are The Travelers Indemnity Co., The Charter Oak Fire Insurance Co., The Travelers Indemnity Company of America, and The Phoenix Insurance Co.

On November 7, the Travelers Insurance Group submitted applications for withdrawal of their certificates of authority to sell automobile insurance in the state of California. In conjunction with this application, and following the passage of Proposition 103, the companies began to issue notices of nonrenewal of automobile policies that were to expire on December 23. The Commissioner asserted that "the notices were issued without regard to nonpayment of premium, fraud or material increase of hazard," as is now required for a valid notice of nonrenewal under Insurance Code section 1861.03(c), added by Proposition 103.

The companies responded at a January 4 hearing called by the Commissioner. Company representatives asserted that Insurance Code section 1861.03 does not apply to them since they had surrendered their certificates of authority to sell insurance in California. The insurers also argued that it was unfair to apply Proposition 103 to policies that were written before the new law was in effect.

An attorney for the Department responded that since other provisions of Proposition 103 contain language referring to policies written after the law's effective date, the absence of similar language in Insurance Code section 1861.03(c) indicates that it should apply in this case. She added that while an insurer may surrender its certificate of authority, its responsibilities to its policyholders are relieved only after the Commissioner has approved its withdrawal through the application process outlined



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in Insurance Code section 1070 *et seq.*

Under Insurance Code section 1071.5, insurers withdrawing from the state must arrange for their policies to be assumed by other insurers licensed to sell insurance in the state. Compliance with this provision is required before an insurer may be granted a withdrawal of its certificate of authority to sell insurance.

The hearing officer granted two weeks for the filing of responses by the Department and the respondents, and indicated that a decision would be handed down soon after the date of those filings.

Commissioner Warns Insurers Against Unfair Rating Practices. In November, Commissioner Gillespie took action against State Farm and SAFECO insurance companies for rating practices which unfairly discriminate against new customers. Following the passage of Proposition 103, both companies stopped writing new policies in their "preferred" plans and began offering coverage to new customers through subsidiaries at higher rates.

The Commissioner's notice required the insurers to rescind their action or respond within ten days of the order. While SAFECO chose to comply with the order, State Farm refused to change its practice and requested a public hearing on the matter. As of January 4, the Commissioner had not set a date for the hearing.

Commissioner Extends Rate Hike Review. In December, the Commissioner issued Bulletin 88-6A, asserting her authority to consider insurance company investment profits when she reviews proposed rate hikes. The bulletin comes as a result of statutes enacted through the passage of Proposition 103. The Commissioner also stated in the bulletin that she is extending the current rate hike review process through November 7, 1989.

In June 1988, the Commissioner issued Bulletin 88-6, ordering insurers to submit actuarial and other data to support automobile insurance rate hikes of 10% or more. (See CRLR Vol. 8, No. 4 (Fall 1988) pp. 84-85 for background information.) In issuing the original order in June, the Commissioner relied on the provisions of Insurance Code section 1852 for the authority necessary to impose the review. Section 1852 was repealed by the passage of Proposition 103 and replaced by new Insurance Code section 1861.05(a). Section 1852 provided that insurance rates in California "may not be excessive, inadequate or unfairly discriminatory." The new Code section adds to that language, providing that "[i]n considering whether a rate is

excessive, inadequate or unfairly discriminatory, no consideration shall be given to the degree of competition and the Commissioner shall consider whether the rate mathematically reflects the insurance company's investment income."

Department to Increase Budget, Add Staff. In November, Insurance Commissioner Roxani Gillespie announced that she plans to increase the Department budget by \$18 million annually and add 300 employees to her staff of 515 if Proposition 103 is upheld by the California Supreme Court. A provision of the new insurance law allows the Department to charge insurance companies for the added costs of enforcement that are likely to occur as a result of Proposition 103.

Department Adopts Medigap Regulations. In November, DOI adopted emergency regulations to adjust to changes in the federal Medicare program initiated by the federal Medicare Catastrophic Coverage Act of 1988 (Public Law 100-360); standardize terms and coverage of Medicare supplement insurance ("medigap") policies; facilitate public understanding of medigap policies; eliminate misleading or confusing policy provisions; eliminate medigap policy duplication of Medicare benefits; provide for full disclosure of policy benefits and changes; and provide for refunds for premiums paid on policies which duplicate Medicare benefits. (See CRLR Vol. 7, No. 4 (Fall 1988) p. 1 for background information on medigap insurance in California.) The changes were codified in Chapter 5, Title 10 of the California Code of Regulations.

The new rules required insurers to mail notices to policyholders by December 1, 1988 of changes in Medicare benefits adopted under the Medicare Catastrophic Coverage Act of 1988. The notices must also include information regarding premium adjustments which may result from the changes in Medicare and Medicare supplement insurance (medigap) policies.

According to the new regulations, effective January 1, 1989, any medigap policy currently in force in the state of California may not contain benefits which duplicate benefits which Medicare provides, and no duplicative policy may be sold. Insurers will have 45 days from January 1 to amend policy forms and to refund any premiums which are collected in excess as a result of this change. Insurers are also required under the new regulations to file all medigap advertisements and all new policy forms with the Insurance Commissioner before the poli-

cies may be sold.

Department Decreases Workers' Compensation Rates. In October, the Department held a hearing in which it considered the Workers' Compensation Insurance Rating Bureau's proposed increase in the premium rates that insurers may charge employers for workers' compensation.

The Bureau's original filing requested a premium increase of 2.6%, to become effective January 1, 1989. However, the hearing officer found that the proposed increase was based on projected loss ratios that were too high when compared to current losses reported to the Department.

In addition, the Bureau proposed elimination of the experience of the State Compensation Insurance Fund, which formerly insured some public agencies which are now self-insured. This experience was deleted from the computation, since the hearing officer found it reasonable to presume that it would not be relevant to the future experience of the Fund.

When it proposed the increase, the Bureau also recommended including as part of the analysis a factor that would reflect an extension of the current 210-month loss development factor. The hearing officer found that since outstanding claims under this factor were predominantly asbestosis-related, and the current use of asbestos is negligible, a factor of longer than 210 months was not warranted.

As a result of the hearing officer's findings regarding the formula used by the Bureau to arrive at the figure it proposed for the rate increase, he determined that the increase was not appropriate. Instead of the 2.6% increase requested by the Bureau, the hearing officer recommended and the Commissioner adopted a 1% decrease in workers' compensation insurance rates.

Department Issues Insurance Buyers' Guide. In December, the Department issued a 12-page brochure entitled "Getting the Most for Your Insurance Dollar." The brochure contains advice on shopping for insurance, including research of coverage and premium rates, as well as methods of dealing with insurance salespeople. Also included is a glossary of insurance terms and referral information for questions and problems. Free copies of the pamphlet may be obtained at Department offices or by calling the Department's toll-free number.

LEGISLATION:

Proposition 103. Unless a decision by the California Supreme Court strikes



down the entire proposition (*see infra* LITIGATION), the new insurance laws created by Proposition 103 will:

- make the insurance industry "subject to laws of California applicable to any other business, including, but not limited to, the Unruh Civil Rights Act (Civil Code sections 51 through 53), and the antitrust and unfair business practices laws (Parts 2 and 3, commencing with section 16600 of Division 7 of the Business and Professions Code)" (section 1861.03(a)).

- make the office of Insurance Commissioner, beginning with the 1990 election, an elected rather than appointed position (section 12900).

- allow banks to sell insurance through repeal of Insurance Code section 1643. In November, First Interstate Bank of California applied for a certificate of authority to sell insurance; Security Pacific Bank took the same action in December.

- prohibit insurers from cancelling or failing to renew a policy, except for (1) nonpayment of premium; (2) fraud or material misrepresentation affecting the policy or insured; or (3) a substantial increase in the hazard insured against (section 1861.03(c)).

- require the Insurance Commissioner to hold public hearings on any proposed rate change in excess of 7% on personal lines of insurance and 15% on commercial lines. These changes would be subject to the approval of the Commissioner, and insurance carriers would be required to make their financial records public to support the changes. This portion of the law will become effective in November 1989 (section 1861.05).

- eliminate territorial rating schemes, and require that rates for an automobile insurance policy be determined by application of the following factors: (1) the insured's driving safety record; (2) the number of miles he/she drives annually; (3) the number of years of driving experience the insured has had; and (4) other factors adopted by the Commissioner through rulemaking (section 1861.02(a)).

- allow insurance agents and brokers to grant rebates or discounts to their clients. This is accomplished through repeal of Article 5 (commencing with section 750) of Chapter 1, Part 2, Division 1 of the Insurance Code.

SB 103 (Robbins) During the December legislative session, Senator Alan Robbins introduced legislation in response to the increasing number of notices of nonrenewal and cancellation of insurance policies following the passage of Proposition 103 in November.

As introduced, SB 103 would authorize penalties upon any insurer that fails to renew more than 10% of its policies for any line of property or casualty insurance, or if the Insurance Commissioner determines that a substantial number of policies are being denied renewal for reasons unrelated to the individual underwriting risk. The proposed legislation would apply to all insurers holding a certificate of authority, or whose affiliate holds a certificate of authority, to sell insurance in the state of California.

Insurers found in violation would be required to offer to renew the policies and would be liable to policyholders for the increase in premium for whatever replacement policy they may have been forced to purchase. Companies would also be liable for a penalty assessed by the Insurance Commissioner and determined by a prescribed formula that utilizes the percentage of policies cancelled as the basis for a sliding-scale penalty. The penalties would be deposited into the Insurance Company Noncompliance Special Fund created by this bill and would be used to subsidize those who cannot afford insurance.

SB 103 is an urgency bill, requires a two-thirds majority in each house to pass, and would take effect immediately upon its passage.

SB 3 (Roberti) Senate President pro Tempore David Roberti has introduced a bill that would create the Office of the Insurance Consumer Advocate in the state Department of Justice. The Office would have the power to intervene in any judicial or administrative proceeding involving insurance. Proposition 100, which was defeated in the November election, contained a provision that would have created the same office proposed in SB 3. Proposition 103, approved by the voters in the same election, contains a similar provision to create a nonprofit corporation to represent the interests of insurance consumers in hearings before the legislature and the Department of Insurance. SB 3 is also an urgency statute and requires a two-thirds vote to pass.

SB 41 (Green) would empower the Insurance Consumer Advocate proposed in SB 3 to investigate and intervene regarding allegations of unfair business practices and claims of bad faith on the part of insurance companies.

SB 5 (Roberti) was introduced in response to the actions of some insurance companies which, following the passage of Proposition 103, began to divert new customers to subsidiaries which they had previously created to

handle high-risk customers. These diversions occurred without regard to the risk category of the new customer and resulted in new customers paying substantially higher rates than existing customers. (*See supra* MAJOR PROJECTS.)

Under SB 5, it would be unlawful for insurance companies to force new customers to buy insurance from subsidiaries at rates higher than those charged for existing policyholders in similar risk categories. Injured consumers would be given the right to sue violating insurers for damages, and the bill would be retroactive to November 8, 1988. The bill also provides the Insurance Commissioner with the authority to revoke the license of violating insurers to do business in the state of California. Like SB 103 and SB 3, this bill is an emergency measure.

No-Fault. Assembly Finance and Insurance Committee Chair Patrick Johnston and Consumers Union plan to introduce a no-fault automobile insurance bill based on the system currently in place in New York. The insurance industry's no-fault initiative on the November ballot, Proposition 104, was rejected by voters. (*See CRLR* Vol. 8, No. 4 (Fall 1988) p. 86 for background information.) The Johnston bill will differ from the failed initiative in two major respects: its ceiling of coverage would be higher, and the bill would establish a schedule of fees that doctors and hospitals may charge for treating injuries which result from automobile accidents. While the no-fault system proposed by Proposition 104 was limited in its basic coverage to \$10,000 for medical costs and \$15,000 for lost wages, Johnston's proposal would include a base level of at least \$50,000.

LITIGATION:

The Challenge to Proposition 103. On November 9, the insurance industry filed four separate actions in the California Supreme Court, seeking to block implementation of Proposition 103, the "Voter Revolt to Cut Insurance Rates" initiative. The cases were consolidated under the name of the lead case, *Cal-farm Insurance Co. v. Deukmejian*, No. S007838. The Court stayed enforcement of the law on November 10; but on December 7, it vacated its stay on all provisions of the proposition with the exception of Insurance Code section 1861.01(a), (b), (d), and (e) (the 20% rate rollback and one-year freeze); and Insurance Code section 1861.10(c) (a provision requiring insurers to insert in premium billing envelopes a notice re-



garding a nonprofit consumer group to represent consumers in insurance matters).

The industry primarily argues that the initiative is facially unconstitutional in that it fails to expressly set forth rate standards which will guarantee insurance companies a fair rate of return on their investment, and administrative procedures through which aggrieved insurers may seek effective relief from the 20% rate rollback and one-year rate freeze provisions of Proposition 103. The industry relies heavily on *Birkenfeld v. City of Berkeley*, 17 Cal. 3d 129 (1976), a case in which the city's rent control ordinance was invalidated. There, the Court found that landlords were deprived of due process because the part-time, five-member rent control board created by the ordinance was inundated with over 16,000 applications for rate exemptions, and lacked any regulatory authority to streamline the exemption procedures into an effective, manageable system.

Respondents (Attorney General John Van de Kamp and the State Board of Equalization) and Real Parties in Interest (proponents of Proposition 103) argue that the new statute is not required to set forth detailed standards and procedures for regulations. Rather, the statute leaves such rulemaking to the appropriate entity: the Insurance Commissioner, who is fully empowered to and (with over 500 employees) capable of adopting implementing regulations to streamline the exemption hearing process. Along with the filing of the responsive briefs of Respondents and Real Parties in Interest, several consumer groups— including Consumers Union and the Center for Public Interest Law— petitioned the Commissioner to engage in rulemaking to implement the effective provisions of Proposition 103, and also preparatory rulemaking to implement the rollback/freeze provisions once the stay imposed upon them is lifted.

Governor Deukmejian and Commissioner Gillespie, named as respondents in the action, have declared themselves neutral on the merits of the case. All briefing in the case has concluded; the Supreme Court set oral argument for March 7.

Antitrust Suit. The Attorneys General of eighteen states are pursuing the suit they have filed against 32 insurance companies and underwriters. The suit alleges that the companies used threats and boycotts to increase the cost and limit the availability of liability insurance to public agencies, businesses, and nonprofit organizations, as well as elimin-

ate coverage for long-term pollution damage. (See CRLR Vol. 8, No. 4 (Fall 1988) p. 87 and Vol. 8, No. 3 (Summer 1988) p. 91 for background information.)

In December, the insurers involved in the suit filed five motions for dismissal, asserting in one that their actions were merely "an agreement on policy terms" and not a boycott. Under the terms of the McCarran-Ferguson Act, insurance companies are exempted from most of federal antitrust law. The Act, however, provides for an exception in the case of insurance boycotts, eliminating immunity for those actions.

In another motion, the insurers allege that since insurance regulatory agencies "held and exercised ultimate control over the policy forms and their contents" in the various states now suing, the states have no valid cause of action.

The states claim that the insurers changed the customary "occurrence" form of insurance offered to their customers to a "claims-made" form. The change resulted in a shift from coverage of all accidents that occur while a policy is in effect, regardless of when the claim was filed, to a system that compensates losses that occur and are claimed while the policy is in effect.

The states have until April 28 to respond, and a hearing on the insurers' motions is set for July 7.

DEPARTMENT OF REAL ESTATE

Commissioner: James A. Edmonds, Jr.
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The Real Estate Commissioner is appointed by the Governor and is the chief officer of the Department of Real Estate (DRE). The commissioner's principal duties include determining administrative policy and enforcing the Real Estate Law in a manner which achieves maximum protection for purchasers of real property and those persons dealing with a real estate licensee. The commissioner is assisted by the Real Estate Advisory Commission, which is comprised of six brokers and four public members who serve at the commissioner's pleasure. The Real Estate Advisory Commission must conduct at least four public meetings each year. The commissioner receives additional advice from specialized committees in areas of education and research, mortgage lending, subdivisions and commercial and business brokerage. Various subcommittees also provide advisory input.

The Department primarily regulates two aspects of the real estate industry: licensees (as of September 1988, 216,365 salespersons, 90,211 brokers, 17,332 corporations) and subdivisions.

License examinations require a fee of \$25 per salesperson applicant and \$50 per broker applicant. Exam passage rates average 55% for salespersons and 47% for brokers. License fees for salespersons and brokers are \$120 and \$165, respectively. Original licensees are fingerprinted and license renewal is required every four years.

In sales or leases of most residential subdivisions, the Department protects the public by requiring that a prospective buyer be given a copy of the "public report." The public report serves two functions aimed at protecting buyers of subdivision interests: (1) the report requires disclosure of material facts relating to title, encumbrances, and similar information; and (2) it ensures adherence to applicable standards for creating, operating, financing, and documenting the project. The commissioner will not issue the public report if the subdivider fails to comply with any provision of the Subdivided Lands Act.

The Department publishes three major publications. The *Real Estate Bulletin* is circulated quarterly as an educational service to all real estate licensees. It contains legislative and regulatory changes, commentaries and advice. In addition, it lists names of licensees against whom disciplinary action, such as license revocation or suspension, is pending. Funding for the *Bulletin* is supplied from a \$2 share of license renewal fees. The paper is mailed to valid license holders.

Two industry handbooks are published by the Department. *Real Estate Law* provides relevant portions of codes affecting real estate practice. The *Reference Book* is an overview of real estate licensing, examination, requirements and practice. Both books are frequently revised and supplemented as needed. Each book sells for \$12.50.

The California Association of Realtors (CAR), the industry's trade association, is the largest such organization in the state. Approximately 105,000 licensed agents are members. CAR is often the sponsor of legislation affecting the Department of Real Estate. The four public meetings required to be held by the Real Estate Advisory Commission are usually on the same day and in the same location as CAR meetings.