

AMENDED IN ASSEMBLY APRIL 16, 2001

AMENDED IN ASSEMBLY APRIL 2, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1193

**Introduced by Assembly Member Steinberg
(Coauthors: Assembly Members Firebaugh, Pavley, Richman,
and Strom-Martin)**

(Coauthors: Senators Bowen, *Kuehl*, *Machado*, and Romero)

February 23, 2001

An act to amend Section 790.03 of, and to add Section 676.10 to, the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1193, as amended, Steinberg. Insurers: hate crimes: cancellation or refusal to renew.

(1) Existing law provides for regulation of insurers by the Insurance Commissioner. Existing law imposes various limitations on insurers relative to cancellation or nonrenewal of policies protecting against certain residential, liability, and commercial risks.

This bill would provide that an insurer issuing policies protecting against certain residential, liability, and commercial risks may not cancel or refuse to renew a policy solely on the basis that one or more claims has been made against the policy for a loss that is the result of a hate crime committed against the person or property of an insured. This bill would require an insurer to report to the commissioner the cancellation or nonrenewal of a policy subject to these provisions after an insured has submitted a claim to the insurer that is the result of a hate

crime, and would require the insurer to provide additional related information to the commissioner.

(2) Existing law provides that certain actions are defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance, and specifies certain penalties and powers of the commissioner in this regard.

This bill would provide that a violation of the bill’s requirements would be subject to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 676.10 is added to the Insurance Code,
2 to read:

3 676.10. (a) This section applies to policies covered by
4 Section 675, 675.5, or 676.5.

5 (b) No insurer issuing policies subject to this section shall
6 cancel or refuse to renew the policy solely on the basis that one or
7 more claims has been made against the policy for a loss that is the
8 result of a hate crime committed against the person or property of
9 an insured.

10 ~~(c) As used in this section, “hate crime” means to do any of the~~
11 ~~following:~~

12 *(c) As it relates to this section, if determined by a law*
13 *enforcement agency, a “hate crime” includes any of the following:*

14 (1) By force or threat of force, willfully injure, intimidate,
15 interfere with, oppress, or threaten any other person in the free
16 exercise or enjoyment of any right or privilege secured to him or
17 her by the Constitution or laws of this state or by the Constitution
18 or laws of the United States because of the other person’s race,
19 color, religion, ancestry, national origin, disability, gender, or
20 sexual orientation, or because he or she perceives that the other
21 person has one or more of those characteristics. However, the
22 foregoing offense does not include speech alone, except upon a
23 showing that the speech itself threatened violence against a
24 specific person or group of persons and that the defendant had the
25 apparent ability to carry out the threat.

26 (2) Knowingly deface, damage, or destroy the real or personal
27 property of any other person for the purpose of intimidating or



1 interfering with the free exercise or enjoyment of any right or
2 privilege secured to the other person by the Constitution or laws
3 of this state or by the Constitution or laws of the United States,
4 because of the other person's race, color, religion, ancestry,
5 national origin, disability, gender, or sexual orientation, or because
6 he or she perceives that the other person has one or more of those
7 characteristics.

8 (d) Upon cancellation of or refusal to renew a policy subject to
9 this section after an insured has submitted a claim to the insurer
10 that is the result of a hate crime committed against the person or
11 property of the insured, the insurer shall report the cancellation or
12 nonrenewal to the commissioner and shall provide the
13 commissioner with any related information required by the
14 commissioner pursuant to regulations adopted by the
15 commissioner.

16 (e) A violation of this section shall be an unfair practice subject
17 to Article 6.5 (commencing with Section 790) of Chapter 1 of
18 Division 2.

19 (f) *Nothing in this section shall prevent an insurer subject to*
20 *this section from taking any of the actions set forth in subdivision*
21 *(b) on the basis of criteria not otherwise made invalid by this*
22 *section or any other act, regulation, or law.*

23 SEC. 2. Section 790.03 of the Insurance Code is amended to
24 read:

25 790.03. The following are hereby defined as unfair methods
26 of competition and unfair and deceptive acts or practices in the
27 business of insurance.

28 (a) Making, issuing, circulating, or causing to be made, issued
29 or circulated, any estimate, illustration, circular or statement
30 misrepresenting the terms of any policy issued or to be issued or
31 the benefits or advantages promised thereby or the dividends or
32 share of the surplus to be received thereon, or making any false or
33 misleading statement as to the dividends or share of surplus
34 previously paid on similar policies, or making any misleading
35 representation or any misrepresentation as to the financial
36 condition of any insurer, or as to the legal reserve system upon
37 which any life insurer operates, or using any name or title of any
38 policy or class of policies misrepresenting the true nature thereof,
39 or making any misrepresentation to any policyholder insured in



1 any company for the purpose of inducing or tending to induce such
2 policyholder to lapse, forfeit, or surrender his or her insurance.

3 (b) Making or disseminating or causing to be made or
4 disseminated before the public in this state, in any newspaper or
5 other publication, or any advertising device, or by public outcry or
6 proclamation, or in any other manner or means whatsoever, any
7 statement containing any assertion, representation or statement
8 with respect to the business of insurance or with respect to any
9 person in the conduct of his or her insurance business, which is
10 untrue, deceptive, or misleading, and which is known, or which by
11 the exercise of reasonable care should be known, to be untrue,
12 deceptive, or misleading.

13 (c) Entering into any agreement to commit, or by any concerted
14 action committing, any act of boycott, coercion or intimidation
15 resulting in or tending to result in unreasonable restraint of, or
16 monopoly in, the business of insurance.

17 (d) Filing with any supervisory or other public official, or
18 making, publishing, disseminating, circulating, or delivering to
19 any person, or placing before the public, or causing directly or
20 indirectly, to be made, published, disseminated, circulated,
21 delivered to any person, or placed before the public any false
22 statement of financial condition of an insurer with intent to
23 deceive.

24 (e) Making any false entry in any book, report, or statement of
25 any insurer with intent to deceive any agent or examiner lawfully
26 appointed to examine into its condition or into any of its affairs,
27 or any public official to whom the insurer is required by law to
28 report, or who has authority by law to examine into its condition
29 or into any of its affairs, or, with like intent, willfully omitting to
30 make a true entry of any material fact pertaining to the business of
31 the insurer in any book, report, or statement of the insurer.

32 (f) Making or permitting any unfair discrimination between
33 individuals of the same class and equal expectation of life in the
34 rates charged for any contract of life insurance or of life annuity
35 or in the dividends or other benefits payable thereon, or in any
36 other of the terms and conditions of the contract.

37 This subdivision shall be interpreted, for any contract of
38 ordinary life insurance or individual life annuity applied for and
39 issued on or after January 1, 1981, to require differentials based
40 upon the sex of the individual insured or annuitant in the rates or



1 dividends or benefits, or any combination thereof. This
2 requirement is satisfied if those differentials are substantially
3 supported by valid pertinent data segregated by sex, including, but
4 not necessarily limited to, mortality data segregated by sex.

5 However, for any contract of ordinary life insurance or
6 individual life annuity applied for and issued on or after January
7 1, 1981, but before the compliance date, in lieu of those
8 differentials based on data segregated by sex, rates, or dividends
9 or benefits, or any combination thereof, for ordinary life insurance
10 or individual life annuity on a female life may be calculated as
11 follows: (a) according to an age not less than three years nor more
12 than six years younger than the actual age of the female insured or
13 female annuitant, in the case of a contract of ordinary life
14 insurance with a face value greater than five thousand dollars
15 (\$5,000) or a contract of individual life annuity; and (b) according
16 to an age not more than six years younger than the actual age of the
17 female insured, in the case of a contract of ordinary life insurance
18 with a face value of five thousand dollars (\$5,000) or less.
19 “Compliance date” as used in this paragraph shall mean the date
20 or dates established as the operative date or dates by future
21 amendments to this code directing and authorizing life insurers to
22 use a mortality table containing mortality data segregated by sex
23 for the calculation of adjusted premiums and present values for
24 nonforfeiture benefits and valuation reserves as specified in
25 Sections 10163.5 and 10489.2 or successor sections.

26 Notwithstanding the provisions of this subdivision, sex-based
27 differentials in rates or dividends or benefits, or any combination
28 thereof, shall not be required for (1) any contract of life insurance
29 or life annuity issued pursuant to arrangements which may be
30 considered terms, conditions, or privileges of employment as these
31 terms are used in Title VII of the Civil Rights Act of 1964 (Public
32 Law 88-352), as amended, and (2) tax sheltered annuities for
33 employees of public schools or of tax exempt organizations
34 described in Section 501(c)(3) of the Internal Revenue Code.

35 (g) Making or disseminating, or causing to be made or
36 disseminated, before the public in this state, in any newspaper or
37 other publication, or any other advertising device, or by public
38 outcry or proclamation, or in any other manner or means whatever,
39 whether directly or by implication, any statement that a named
40 insurer, or named insurers, are members of the California



1 Insurance Guarantee Association, or insured against insolvency as
2 defined in Section 119.5. This subdivision shall not be interpreted
3 to prohibit any activity of the California Insurance Guarantee
4 Association or the commissioner authorized, directly or by
5 implication, by Article 14.2 (commencing with Section 1063).
6 (h) Knowingly committing or performing with such frequency
7 as to indicate a general business practice any of the following
8 unfair claims settlement practices:
9 (1) Misrepresenting to claimants pertinent facts or insurance
10 policy provisions relating to any coverages at issue.
11 (2) Failing to acknowledge and act reasonably promptly upon
12 communications with respect to claims arising under insurance
13 policies.
14 (3) Failing to adopt and implement reasonable standards for the
15 prompt investigation and processing of claims arising under
16 insurance policies.
17 (4) Failing to affirm or deny coverage of claims within a
18 reasonable time after proof of loss requirements have been
19 completed and submitted by the insured.
20 (5) Not attempting in good faith to effectuate prompt, fair, and
21 equitable settlements of claims in which liability has become
22 reasonably clear.
23 (6) Compelling insureds to institute litigation to recover
24 amounts due under an insurance policy by offering substantially
25 less than the amounts ultimately recovered in actions brought by
26 the insureds, when the insureds have made claims for amounts
27 reasonably similar to the amounts ultimately recovered.
28 (7) Attempting to settle a claim by an insured for less than the
29 amount to which a reasonable man would have believed he was
30 entitled by reference to written or printed advertising material
31 accompanying or made part of an application.
32 (8) Attempting to settle claims on the basis of an application
33 which was altered without notice to, or knowledge or consent of,
34 the insured, his or her representative, agent, or broker.
35 (9) Failing, after payment of a claim, to inform insureds or
36 beneficiaries, upon request by them, of the coverage under which
37 payment has been made.
38 (10) Making known to insureds or claimants a practice of the
39 insurer of appealing from arbitration awards in favor of insureds
40 or claimants for the purpose of compelling them to accept



1 settlements or compromises less than the amount awarded in
2 arbitration.

3 (11) Delaying the investigation or payment of claims by
4 requiring an insured, claimant, or the physician of either, to submit
5 a preliminary claim report, and then requiring the subsequent
6 submission of formal proof of loss forms, both of which
7 submissions contain substantially the same information.

8 (12) Failing to settle claims promptly, where liability has
9 become apparent, under one portion of the insurance policy
10 coverage in order to influence settlements under other portions of
11 the insurance policy coverage.

12 (13) Failing to provide promptly a reasonable explanation of
13 the basis relied on in the insurance policy, in relation to the facts
14 or applicable law, for the denial of a claim or for the offer of a
15 compromise settlement.

16 (14) Directly advising a claimant not to obtain the services of
17 an attorney.

18 (15) Misleading a claimant as to the applicable statute of
19 limitations.

20 (16) Delaying the payment or provision of hospital, medical, or
21 surgical benefits for services provided with respect to acquired
22 immune deficiency syndrome or AIDS-related complex for more
23 than 60 days after the insurer has received a claim for those
24 benefits, where the delay in claim payment is for the purpose of
25 investigating whether the condition preexisted the coverage.
26 However, this 60-day period shall not include any time during
27 which the insurer is awaiting a response for relevant medical
28 information from a health care provider.

29 (i) Canceling or refusing to renew a policy in violation of
30 Section 676.10.

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