

AMENDED IN ASSEMBLY APRIL 30, 2001

AMENDED IN ASSEMBLY APRIL 16, 2001

AMENDED IN ASSEMBLY APRIL 2, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1193**

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**Introduced by Assembly Member Steinberg**  
**(Coauthors: Assembly Members Firebaugh, Pavley, Richman,**  
**and Strom-Martin)**  
(Coauthors: Senators Bowen, Kuehl, Machado, and Romero)

February 23, 2001

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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 *issued to a place of worship including, but not limited to, a church, synagogue, temple, or a nonprofit entity organized and operated for religious, charitable, educational, health, or welfare purposes*, solely on the basis that one or more claims has been made against the policy *during the preceding 60 months* for a loss that

is the result of a hate crime committed against the person or property of an insured. *This bill would authorize a law enforcement agency, using specified guidelines, to determine if the action in question was a hate crime.* 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 *of a church, synagogue,*  
7 *temple, or other place of worship, or a nonprofit entity organized*  
8 *and operated for religious, charitable, educational, health, or*  
9 *welfare purposes, solely on the basis that one or more claims has*  
10 *been made against the policy during the preceding 60 months for*  
11 *a loss that is the result of a hate crime committed against the person*  
12 *or property of ~~an~~ the insured.*

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

16 (1) By force or threat of force, willfully injure, intimidate,  
17 interfere with, oppress, or threaten any other person in the free  
18 exercise or enjoyment of any right or privilege secured to him or  
19 her by the Constitution or laws of this state or by the Constitution  
20 or laws of the United States because of the other person’s race,  
21 color, religion, ancestry, national origin, disability, gender, or



1 sexual orientation, or because he or she perceives that the other  
2 person has one or more of those characteristics. However, the  
3 foregoing offense does not include speech alone, except upon a  
4 showing that the speech itself threatened violence against a  
5 specific person or group of persons and that the defendant had the  
6 apparent ability to carry out the threat.

7 (2) Knowingly deface, damage, or destroy the real or personal  
8 property of any other person for the purpose of intimidating or  
9 interfering with the free exercise or enjoyment of any right or  
10 privilege secured to the other person by the Constitution or laws  
11 of this state or by the Constitution or laws of the United States,  
12 because of the other person's race, color, religion, ancestry,  
13 national origin, disability, gender, or sexual orientation, or because  
14 he or she perceives that the other person has one or more of those  
15 characteristics.

16 (d) Upon cancellation of or refusal to renew a policy subject to  
17 this section after an insured has submitted a claim to the insurer  
18 that is the result of a hate crime committed against the person or  
19 property of the insured, the insurer shall report the cancellation or  
20 nonrenewal to the commissioner and shall provide the  
21 commissioner with any related information required by the  
22 commissioner pursuant to regulations adopted by the  
23 commissioner.

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

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

31 SEC. 2. Section 790.03 of the Insurance Code is amended to  
32 read:

33 790.03. The following are hereby defined as unfair methods  
34 of competition and unfair and deceptive acts or practices in the  
35 business of insurance.

36 (a) Making, issuing, circulating, or causing to be made, issued  
37 or circulated, any estimate, illustration, circular or statement  
38 misrepresenting the terms of any policy issued or to be issued or  
39 the benefits or advantages promised thereby or the dividends or  
40 share of the surplus to be received thereon, or making any false or



1 misleading statement as to the dividends or share of surplus  
2 previously paid on similar policies, or making any misleading  
3 representation or any misrepresentation as to the financial  
4 condition of any insurer, or as to the legal reserve system upon  
5 which any life insurer operates, or using any name or title of any  
6 policy or class of policies misrepresenting the true nature thereof,  
7 or making any misrepresentation to any policyholder insured in  
8 any company for the purpose of inducing or tending to induce such  
9 policyholder to lapse, forfeit, or surrender his or her insurance.

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

20 (c) Entering into any agreement to commit, or by any concerted  
21 action committing, any act of boycott, coercion or intimidation  
22 resulting in or tending to result in unreasonable restraint of, or  
23 monopoly in, the business of insurance.

24 (d) Filing with any supervisory or other public official, or  
25 making, publishing, disseminating, circulating, or delivering to  
26 any person, or placing before the public, or causing directly or  
27 indirectly, to be made, published, disseminated, circulated,  
28 delivered to any person, or placed before the public any false  
29 statement of financial condition of an insurer with intent to  
30 deceive.

31 (e) Making any false entry in any book, report, or statement of  
32 any insurer with intent to deceive any agent or examiner lawfully  
33 appointed to examine into its condition or into any of its affairs,  
34 or any public official to whom the insurer is required by law to  
35 report, or who has authority by law to examine into its condition  
36 or into any of its affairs, or, with like intent, willfully omitting to  
37 make a true entry of any material fact pertaining to the business of  
38 the insurer in any book, report, or statement of the insurer.

39 (f) Making or permitting any unfair discrimination between  
40 individuals of the same class and equal expectation of life in the



1 rates charged for any contract of life insurance or of life annuity  
2 or in the dividends or other benefits payable thereon, or in any  
3 other of the terms and conditions of the contract.

4 This subdivision shall be interpreted, for any contract of  
5 ordinary life insurance or individual life annuity applied for and  
6 issued on or after January 1, 1981, to require differentials based  
7 upon the sex of the individual insured or annuitant in the rates or  
8 dividends or benefits, or any combination thereof. This  
9 requirement is satisfied if those differentials are substantially  
10 supported by valid pertinent data segregated by sex, including, but  
11 not necessarily limited to, mortality data segregated by sex.

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

33 Notwithstanding the provisions of this subdivision, sex-based  
34 differentials in rates or dividends or benefits, or any combination  
35 thereof, shall not be required for (1) any contract of life insurance  
36 or life annuity issued pursuant to arrangements which may be  
37 considered terms, conditions, or privileges of employment as these  
38 terms are used in Title VII of the Civil Rights Act of 1964 (Public  
39 Law 88-352), as amended, and (2) tax sheltered annuities for



1 employees of public schools or of tax exempt organizations  
2 described in Section 501(c)(3) of the Internal Revenue Code.  
3 (g) 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 other advertising device, or by public  
6 outcry or proclamation, or in any other manner or means whatever,  
7 whether directly or by implication, any statement that a named  
8 insurer, or named insurers, are members of the California  
9 Insurance Guarantee Association, or insured against insolvency as  
10 defined in Section 119.5. This subdivision shall not be interpreted  
11 to prohibit any activity of the California Insurance Guarantee  
12 Association or the commissioner authorized, directly or by  
13 implication, by Article 14.2 (commencing with Section 1063).  
14 (h) Knowingly committing or performing with such frequency  
15 as to indicate a general business practice any of the following  
16 unfair claims settlement practices:  
17 (1) Misrepresenting to claimants pertinent facts or insurance  
18 policy provisions relating to any coverages at issue.  
19 (2) Failing to acknowledge and act reasonably promptly upon  
20 communications with respect to claims arising under insurance  
21 policies.  
22 (3) Failing to adopt and implement reasonable standards for the  
23 prompt investigation and processing of claims arising under  
24 insurance policies.  
25 (4) Failing to affirm or deny coverage of claims within a  
26 reasonable time after proof of loss requirements have been  
27 completed and submitted by the insured.  
28 (5) Not attempting in good faith to effectuate prompt, fair, and  
29 equitable settlements of claims in which liability has become  
30 reasonably clear.  
31 (6) Compelling insureds to institute litigation to recover  
32 amounts due under an insurance policy by offering substantially  
33 less than the amounts ultimately recovered in actions brought by  
34 the insureds, when the insureds have made claims for amounts  
35 reasonably similar to the amounts ultimately recovered.  
36 (7) Attempting to settle a claim by an insured for less than the  
37 amount to which a reasonable man would have believed he was  
38 entitled by reference to written or printed advertising material  
39 accompanying or made part of an application.



1 (8) Attempting to settle claims on the basis of an application  
2 which was altered without notice to, or knowledge or consent of,  
3 the insured, his or her representative, agent, or broker.

4 (9) Failing, after payment of a claim, to inform insureds or  
5 beneficiaries, upon request by them, of the coverage under which  
6 payment has been made.

7 (10) Making known to insureds or claimants a practice of the  
8 insurer of appealing from arbitration awards in favor of insureds  
9 or claimants for the purpose of compelling them to accept  
10 settlements or compromises less than the amount awarded in  
11 arbitration.

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

17 (12) Failing to settle claims promptly, where liability has  
18 become apparent, under one portion of the insurance policy  
19 coverage in order to influence settlements under other portions of  
20 the insurance policy coverage.

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

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

27 (15) Misleading a claimant as to the applicable statute of  
28 limitations.

29 (16) Delaying the payment or provision of hospital, medical, or  
30 surgical benefits for services provided with respect to acquired  
31 immune deficiency syndrome or AIDS-related complex for more  
32 than 60 days after the insurer has received a claim for those  
33 benefits, where the delay in claim payment is for the purpose of  
34 investigating whether the condition preexisted the coverage.  
35 However, this 60-day period shall not include any time during  
36 which the insurer is awaiting a response for relevant medical  
37 information from a health care provider.



- 1 (i) Canceling or refusing to renew a policy in violation of
- 2 Section 676.10.

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