

AMENDED IN ASSEMBLY MAY 8, 2001
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

Introduced by Assembly Member Steinberg
(Coauthors: Assembly Members Calderon, Diaz, Dutra,
Firebaugh, Frommer, Kehoe, Maddox, Pavley, Richman, ~~and~~
~~Strom-Martin~~ Strom-Martin, and Vargas)
(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 issued to a place of worship including, but not limited to, a church, synagogue, *or* temple, or a nonprofit entity

organized and operated for religious, charitable, educational, *or* 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, *or* 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 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



1 her by the Constitution or laws of this state or by the Constitution
2 or laws of the United States because of the other person's race,
3 color, religion, ancestry, national origin, disability, gender, or
4 sexual orientation, or because he or she perceives that the other
5 person has one or more of those characteristics. However, the
6 foregoing offense does not include speech alone, except upon a
7 showing that the speech itself threatened violence against a
8 specific person or group of persons and that the defendant had the
9 apparent ability to carry out the threat.

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

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

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

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

34 SEC. 2. Section 790.03 of the Insurance Code is amended to
35 read:

36 790.03. The following are hereby defined as unfair methods
37 of competition and unfair and deceptive acts or practices in the
38 business of insurance.

39 (a) Making, issuing, circulating, or causing to be made, issued
40 or circulated, any estimate, illustration, circular or statement



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

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

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

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

34 (e) Making any false entry in any book, report, or statement of
35 any insurer with intent to deceive any agent or examiner lawfully
36 appointed to examine into its condition or into any of its affairs,
37 or any public official to whom the insurer is required by law to
38 report, or who has authority by law to examine into its condition
39 or into any of its affairs, or, with like intent, willfully omitting to



1 make a true entry of any material fact pertaining to the business of
2 the insurer in any book, report, or statement of the insurer.

3 (f) Making or permitting any unfair discrimination between
4 individuals of the same class and equal expectation of life in the
5 rates charged for any contract of life insurance or of life annuity
6 or in the dividends or other benefits payable thereon, or in any
7 other of the terms and conditions of the contract.

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

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

37 Notwithstanding the provisions of this subdivision, sex-based
38 differentials in rates or dividends or benefits, or any combination
39 thereof, shall not be required for (1) any contract of life insurance
40 or life annuity issued pursuant to arrangements which may be



1 considered terms, conditions, or privileges of employment as these
2 terms are used in Title VII of the Civil Rights Act of 1964 (Public
3 Law 88-352), as amended, and (2) tax sheltered annuities for
4 employees of public schools or of tax exempt organizations
5 described in Section 501(c)(3) of the Internal Revenue Code.

6 (g) Making or disseminating, or causing to be made or
7 disseminated, before the public in this state, in any newspaper or
8 other publication, or any other advertising device, or by public
9 outcry or proclamation, or in any other manner or means whatever,
10 whether directly or by implication, any statement that a named
11 insurer, or named insurers, are members of the California
12 Insurance Guarantee Association, or insured against insolvency as
13 defined in Section 119.5. This subdivision shall not be interpreted
14 to prohibit any activity of the California Insurance Guarantee
15 Association or the commissioner authorized, directly or by
16 implication, by Article 14.2 (commencing with Section 1063).

17 (h) Knowingly committing or performing with such frequency
18 as to indicate a general business practice any of the following
19 unfair claims settlement practices:

20 (1) Misrepresenting to claimants pertinent facts or insurance
21 policy provisions relating to any coverages at issue.

22 (2) Failing to acknowledge and act reasonably promptly upon
23 communications with respect to claims arising under insurance
24 policies.

25 (3) Failing to adopt and implement reasonable standards for the
26 prompt investigation and processing of claims arising under
27 insurance policies.

28 (4) Failing to affirm or deny coverage of claims within a
29 reasonable time after proof of loss requirements have been
30 completed and submitted by the insured.

31 (5) Not attempting in good faith to effectuate prompt, fair, and
32 equitable settlements of claims in which liability has become
33 reasonably clear.

34 (6) Compelling insureds to institute litigation to recover
35 amounts due under an insurance policy by offering substantially
36 less than the amounts ultimately recovered in actions brought by
37 the insureds, when the insureds have made claims for amounts
38 reasonably similar to the amounts ultimately recovered.

39 (7) Attempting to settle a claim by an insured for less than the
40 amount to which a reasonable man would have believed he was



1 entitled by reference to written or printed advertising material
2 accompanying or made part of an application.

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

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

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

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

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

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

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

29 (15) Misleading a claimant as to the applicable statute of
30 limitations.

31 (16) Delaying the payment or provision of hospital, medical, or
32 surgical benefits for services provided with respect to acquired
33 immune deficiency syndrome or AIDS-related complex for more
34 than 60 days after the insurer has received a claim for those
35 benefits, where the delay in claim payment is for the purpose of
36 investigating whether the condition preexisted the coverage.
37 However, this 60-day period shall not include any time during
38 which the insurer is awaiting a response for relevant medical
39 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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