

AMENDED IN SENATE JUNE 13, 2001  
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**

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**Introduced by Assembly Member Steinberg**  
**(Coauthors: Assembly Members Calderon, Diaz, Dutra,**  
**Firebaugh, Frommer, Kehoe, Koretz, Maddox, Pavley, Richman,**  
**Strom-Martin, and Vargas)**  
(Coauthors: Senators Bowen, Kuehl, Machado, ~~and Romero~~ *Romero,*  
*and Sher*)

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 *the* 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 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, *if the insured is a religious or educational organization or other nonprofit organization organized and operated for religious, charitable, or educational purposes*. 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 *if the insured is a religious*  
 5 *organization described in clause (i) of subparagraph (A) of*  
 6 *paragraph (1) of subsection (b) of Section 170 of Title 26 of the*  
 7 *United States Code, an educational organization described in*  
 8 *clause (ii) of subparagraph (A) of paragraph (1) of subsection (b)*  
 9 *of Section 170 of Title 26 of the United States Code, or other*  
 10 *nonprofit organization described in clause (vi) of subparagraph*  
 11 *(A) of paragraph (1) of subsection (b) of Section 170 of Title 26 of*



1 *the United States Code that is organized and operated for*  
2 *religious, charitable, or educational purposes.*

3 (b) No insurer issuing policies subject to this section shall  
4 cancel or refuse to renew the policy ~~of a church, synagogue,~~  
5 ~~temple, or other place of worship, or a nonprofit entity organized~~  
6 ~~and operated for religious, charitable, educational, or health~~  
7 ~~purposes,~~ solely on the basis that one or more claims has been  
8 made against the policy during the preceding 60 months for a loss  
9 that is the result of a hate crime committed against the person or  
10 property of the insured.

11 (c) As it relates to this section, if determined by a law  
12 enforcement agency, a “hate crime” ~~includes~~ *may include* any of  
13 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  
28 interfering with the free exercise or enjoyment of any right or  
29 privilege secured to the other person by the Constitution or laws  
30 of this state or by the Constitution or laws of the United States,  
31 because of the other person’s race, color, religion, ancestry,  
32 national origin, disability, gender, or sexual orientation, or because  
33 he or she perceives that the other person has one or more of those  
34 characteristics.

35 (d) Upon cancellation of or refusal to renew a policy subject to  
36 this section after an insured has submitted a claim to the insurer  
37 that is the result of a hate crime committed against the person or  
38 property of the insured, the insurer shall report the cancellation or  
39 nonrenewal to the commissioner ~~and shall provide the~~  
40 ~~commissioner with any related information required by the~~



1 ~~commissioner pursuant to regulations adopted by the~~  
2 ~~commissioner.~~

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

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

10 SEC. 2. Section 790.03 of the Insurance Code is amended to  
11 read:

12 790.03. The following are hereby defined as unfair methods  
13 of competition and unfair and deceptive acts or practices in the  
14 business of insurance.

15 (a) Making, issuing, circulating, or causing to be made, issued  
16 or circulated, any estimate, illustration, circular or statement  
17 misrepresenting the terms of any policy issued or to be issued or  
18 the benefits or advantages promised thereby or the dividends or  
19 share of the surplus to be received thereon, or making any false or  
20 misleading statement as to the dividends or share of surplus  
21 previously paid on similar policies, or making any misleading  
22 representation or any misrepresentation as to the financial  
23 condition of any insurer, or as to the legal reserve system upon  
24 which any life insurer operates, or using any name or title of any  
25 policy or class of policies misrepresenting the true nature thereof,  
26 or making any misrepresentation to any policyholder insured in  
27 any company for the purpose of inducing or tending to induce ~~such~~  
28 *the* policyholder to lapse, forfeit, or surrender his or her insurance.

29 (b) Making or disseminating or causing to be made or  
30 disseminated before the public in this state, in any newspaper or  
31 other publication, or any advertising device, or by public outcry or  
32 proclamation, or in any other manner or means whatsoever, any  
33 statement containing any assertion, representation or statement  
34 with respect to the business of insurance or with respect to any  
35 person in the conduct of his or her insurance business, which is  
36 untrue, deceptive, or misleading, and which is known, or which by  
37 the exercise of reasonable care should be known, to be untrue,  
38 deceptive, or misleading.

39 (c) Entering into any agreement to commit, or by any concerted  
40 action committing, any act of boycott, coercion or intimidation



1 resulting in or tending to result in unreasonable restraint of, or  
2 monopoly in, the business of insurance.

3 (d) Filing with any supervisory or other public official, or  
4 making, publishing, disseminating, circulating, or delivering to  
5 any person, or placing before the public, or causing directly or  
6 indirectly, to be made, published, disseminated, circulated,  
7 delivered to any person, or placed before the public any false  
8 statement of financial condition of an insurer with intent to  
9 deceive.

10 (e) Making any false entry in any book, report, or statement of  
11 any insurer with intent to deceive any agent or examiner lawfully  
12 appointed to examine into its condition or into any of its affairs,  
13 or any public official to whom the insurer is required by law to  
14 report, or who has authority by law to examine into its condition  
15 or into any of its affairs, or, with like intent, willfully omitting to  
16 make a true entry of any material fact pertaining to the business of  
17 the insurer in any book, report, or statement of the insurer.

18 (f) Making or permitting any unfair discrimination between  
19 individuals of the same class and equal expectation of life in the  
20 rates charged for any contract of life insurance or of life annuity  
21 or in the dividends or other benefits payable thereon, or in any  
22 other of the terms and conditions of the contract.

23 This subdivision shall be interpreted, for any contract of  
24 ordinary life insurance or individual life annuity applied for and  
25 issued on or after January 1, 1981, to require differentials based  
26 upon the sex of the individual insured or annuitant in the rates or  
27 dividends or benefits, or any combination thereof. This  
28 requirement is satisfied if those differentials are substantially  
29 supported by valid pertinent data segregated by sex, including, but  
30 not necessarily limited to, mortality data segregated by sex.

31 However, for any contract of ordinary life insurance or  
32 individual life annuity applied for and issued on or after January  
33 1, 1981, but before the compliance date, in lieu of those  
34 differentials based on data segregated by sex, rates, or dividends  
35 or benefits, or any combination thereof, for ordinary life insurance  
36 or individual life annuity on a female life may be calculated as  
37 follows: (a) according to an age not less than three years nor more  
38 than six years younger than the actual age of the female insured or  
39 female annuitant, in the case of a contract of ordinary life  
40 insurance with a face value greater than five thousand dollars



1 (\$5,000) or a contract of individual life annuity; and (b) according  
2 to an age not more than six years younger than the actual age of the  
3 female insured, in the case of a contract of ordinary life insurance  
4 with a face value of five thousand dollars (\$5,000) or less.  
5 “Compliance date” as used in this paragraph shall mean the date  
6 or dates established as the operative date or dates by future  
7 amendments to this code directing and authorizing life insurers to  
8 use a mortality table containing mortality data segregated by sex  
9 for the calculation of adjusted premiums and present values for  
10 nonforfeiture benefits and valuation reserves as specified in  
11 Sections 10163.5 and 10489.2 or successor sections.

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

21 (g) Making or disseminating, or causing to be made or  
22 disseminated, before the public in this state, in any newspaper or  
23 other publication, or any other advertising device, or by public  
24 outcry or proclamation, or in any other manner or means whatever,  
25 whether directly or by implication, any statement that a named  
26 insurer, or named insurers, are members of the California  
27 Insurance Guarantee Association, or insured against insolvency as  
28 defined in Section 119.5. This subdivision shall not be interpreted  
29 to prohibit any activity of the California Insurance Guarantee  
30 Association or the commissioner authorized, directly or by  
31 implication, by Article 14.2 (commencing with Section 1063).

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

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

37 (2) Failing to acknowledge and act reasonably promptly upon  
38 communications with respect to claims arising under insurance  
39 policies.



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

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

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

10 (6) Compelling insureds to institute litigation to recover  
11 amounts due under an insurance policy by offering substantially  
12 less than the amounts ultimately recovered in actions brought by  
13 the insureds, when the insureds have made claims for amounts  
14 reasonably similar to the amounts ultimately recovered.

15 (7) Attempting to settle a claim by an insured for less than the  
16 amount to which a reasonable ~~man~~ *person* would have believed he  
17 *or she* was entitled by reference to written or printed advertising  
18 material accompanying or made part of an application.

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

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

25 (10) Making known to insureds or claimants a practice of the  
26 insurer of appealing from arbitration awards in favor of insureds  
27 or claimants for the purpose of compelling them to accept  
28 settlements or compromises less than the amount awarded in  
29 arbitration.

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

35 (12) Failing to settle claims promptly, where liability has  
36 become apparent, under one portion of the insurance policy  
37 coverage in order to influence settlements under other portions of  
38 the insurance policy coverage.

39 (13) Failing to provide promptly a reasonable explanation of  
40 the basis relied on in the insurance policy, in relation to the facts



1 or applicable law, for the denial of a claim or for the offer of a  
2 compromise settlement.

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

5 (15) Misleading a claimant as to the applicable statute of  
6 limitations.

7 (16) Delaying the payment or provision of hospital, medical, or  
8 surgical benefits for services provided with respect to acquired  
9 immune deficiency syndrome or AIDS-related complex for more  
10 than 60 days after the insurer has received a claim for those  
11 benefits, where the delay in claim payment is for the purpose of  
12 investigating whether the condition preexisted the coverage.  
13 However, this 60-day period shall not include any time during  
14 which the insurer is awaiting a response for relevant medical  
15 information from a health care provider.

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

