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AMENDED IN SENATE JULY 7, 2004
AMENDED IN SENATE JUNE 21, 2004
AMENDED IN SENATE JUNE 7, 2004
AMENDED IN SENATE SEPTEMBER 8, 2003
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AMENDED IN ASSEMBLY APRIL 3, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 421

Introduced by Assembly Member Steinberg
(Coauthor: Senator Speier)

February 14, 2003

An act to ~~amend Sections 679.71, 679.72, and 679.73 of, and to add Section 679.74 to, the Insurance Code, to add and repeal Section 679.74 of the Insurance Code,~~ relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 421, as amended, Steinberg. Property insurance: ~~discrimination~~ subsidized housing.

Existing law generally regulates property insurance. Existing law prohibits an insurer under certain property insurance policies from engaging in specified discriminatory practices.

This bill would require the Insurance Commissioner, by July 1, 2005, to conduct a study of the market for property and liability insurance for corporations that provide subsidized low- and moderate-income rental housing. It would require each insurer writing property or liability insurance, excluding worker's compensation coverage, for commercial residential properties, by a date to be set by the commissioner, to report specified information to the commissioner.

The bill would, until January 1, 2008, allow the commissioner, after making certain findings, to formulate and implement a market assistance program, as specified, to assist in securing insurance for nonprofit corporations that provide subsidized low- and moderate-income rental housing, and to require insurers and fire and casualty broker agents to assist in the formulation and implementation of the program.

~~Existing law prohibits an admitted insurer licensed to issue certain policies of property insurance from failing or refusing to accept an application for, or issuing a policy to an applicant for, that insurance, except as specified, or from canceling the insurance, under conditions less favorable to the insured than in other comparable cases, except for reasons applicable alike to persons of every marital status, sex, race, color, religion, national origin, or ancestry. Existing law provides that sex, race, color, religion, national origin, or ancestry shall not, of itself, constitute a condition or risk for which a higher rate, premium, or charge may be required of the insured.~~

~~Existing law also prohibits an application for one of these policies, or an insurance investigation report, from carrying any identification, or any requirement therefor, of the applicant's race, color, religion, national origin, or ancestry.~~

~~This bill would add certain other classifications and facts relating to the insured or the insured property to the categories that may not be used by an insurer for the purposes described above.~~

~~This bill would also prohibit insurers issuing policies of commercial insurance for multifamily housing developments intended for low- and moderate-income families and agricultural employees, as specified,~~



~~from using certain prohibited underwriting classifications to fail or refuse an application or issue a policy, to cancel or fail to renew insurance, to charge different amounts, or to impose different requirements, as specified.~~

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

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

1 ~~SECTION 1. Section 679.71 of the Insurance Code is~~
2 *SECTION 1. Section 679.74 is added to the Insurance Code,*
3 *to read:*

4 679.74. (a) *The following definitions apply for the purposes*
5 *of this section:*

6 (1) *“Subsidized low- and moderate-income rental housing”*
7 *means real property designed for human habitation that is assisted*
8 *by the federal or state government or by a local public entity, as*
9 *defined in Section 900.4 of the Government Code, and is intended*
10 *for occupancy by persons and families of low or moderate income,*
11 *as defined in Section 50093 of the Health and Safety Code, or*
12 *agricultural employees, as defined in subdivision (b) of Section*
13 *1140.4 of the Labor Code, and their families, or persons and*
14 *families receiving federal vouchers issued under Section 8 of the*
15 *United States Housing Act of 1937 (42 U.S.C. Sec. 1437f).*

16 (2) *“Provide” means develop, develop and own, or own the*
17 *housing described in paragraph (1).*

18 (3) *“Commercial residential property” means multifamily*
19 *rental housing.*

20 (4) *“Nonprofit corporation” means an applicant or insured*
21 *that is organized under the Nonprofit Corporation Law (Division*
22 *2 (commencing with Section 5000) of the Corporations Code).*

23 (b) *The commissioner shall conduct a study of the market for*
24 *property and liability insurance for corporations that provide*
25 *subsidized low- and moderate-income rental housing. The results*
26 *of this study shall be provided to the chairs of the Assembly and*
27 *Senate Committees on Insurance on or before July 1, 2005.*

28 (c) *Each insurer writing property or liability insurance,*
29 *excluding worker’s compensation coverage, for commercial*
30 *residential properties shall, by a date to be set by the commissioner,*



1 *report to the commissioner information specified by him or her.*

2 *The information shall include, but not be limited to, the following:*

3 (1) *Whether the insurer is writing property or liability coverage*
4 *for commercial residential properties, including new and renewal*
5 *policies.*

6 (2) *Whether the insurer is writing property or liability coverage*
7 *for subsidized low- and moderate-income commercial residential*
8 *properties.*

9 (3) *The total number and types of commercial residential*
10 *policies by line of business and coverage written during each of the*
11 *immediately preceding three calendar years. If available, the*
12 *insurer shall report nonprofit risk totals separately from for-profit*
13 *risks.*

14 (4) *The total earned premium for property and liability*
15 *coverage for commercial residential properties during each of the*
16 *immediately preceding three calendar years.*

17 (5) *The total earned premium for property and liability*
18 *coverage for subsidized low- and moderate-income rental housing*
19 *during each of the immediately preceding three calendar years.*

20 (6) *The total number of policies issued, claim count, direct*
21 *losses incurred, and cost of claims paid during the immediately*
22 *preceding three calendar years per property claim type and*
23 *liability coverage for commercial residential property risks.*

24 (7) *The total number of policies issued, claim count, direct*
25 *losses incurred, and cost of claims paid during the immediately*
26 *preceding three calendar years per property claim type and*
27 *liability coverage for subsidized low- and moderate-income*
28 *commercial residential property risks. If available, the insurer*
29 *shall report non-profit risk totals separately from for-profit risks.*

30 (8) *Whether and how the insurer's underwriting guidelines or*
31 *practices consider any of the following:*

32 (A) *The fact that a property to be covered is subsidized low- and*
33 *moderate-income rental housing.*

34 (B) *The fact that current or prospective occupants are or will*
35 *be recipients of rental assistance under Section 8 of the United*
36 *States Housing Act of 1937.*

37 (C) *The income levels of the current or prospective occupants*
38 *of the property.*

39 (D) *The fact that the occupants require, or the insured offers,*
40 *onsite social services to the occupants.*



1 (E) The amount of rent current or prospective occupants are or
2 will be charged by the insured.

3 (F) The status of the applicant or insured as a for-profit or
4 nonprofit corporation.

5 (d) If the commissioner finds after a public hearing that
6 insurance for nonprofit corporations that provide subsidized low-
7 and moderate-income rental housing is not readily available in the
8 voluntary insurance market, and that encouraging the availability
9 of this insurance is in the public interest, the commissioner may
10 authorize the formation of a market assistance program to assist
11 in securing that insurance for those risks. The commissioner may
12 require insurers and fire and casualty broker agents to attend
13 public hearings and meetings concerning the need for a market
14 assistance program.

15 (e) The commissioner may formulate and implement a market
16 assistance program, giving consideration to the need for adequate
17 and readily accessible coverage, to the needs of insureds, insurers,
18 fire and casualty broker agents, and to the need for reasonable
19 underwriting standards and required loss prevention measures.
20 The commissioner may require insurers and fire and casualty
21 broker agents to assist in the formulation and implementation of
22 the market assistance program. The insurer and fire and casualty
23 broker agent participation in the market assistance program shall
24 be equitable, as determined by the commissioner.

25 (f) Any plan formulated pursuant to this section shall give
26 consideration to the need for adequate and readily accessible
27 coverage, to alternative methods for improving the market
28 affected, to the inherent limitations of the insurance mechanism,
29 to the need for reasonable underwriting standards, and to the
30 requirement of reasonable loss prevention measures. The plan
31 shall also consider whether there is a decrease in the number of
32 insurers writing commercial residential property insurance for
33 nonprofit insureds that provide subsidized low- and
34 moderate-income rental housing or a withdrawal by insurers from
35 the market, or whether the costs or conditions of coverage make
36 that insurance inaccessible or prohibitive. Plans may be submitted
37 to the commissioner and, if approved, the market assistance plan
38 may be adopted by bulletin.



1 (g) *This section shall remain in effect only until January 1,*
2 *2008, and as of that date is repealed, unless a later enacted statute*
3 *that is enacted before January 1, 2008, deletes or extends that date.*
4 ~~amended to read:~~

5 ~~679.71. No admitted insurer, licensed to issue any policy of~~
6 ~~insurance covered by this chapter, shall fail or refuse to accept an~~
7 ~~application for, or to issue a policy to an applicant for, such~~
8 ~~insurance (unless such insurance is to be issued to the applicant by~~
9 ~~another insurer under the same management and control), or~~
10 ~~cancel such insurance, under conditions less favorable to the~~
11 ~~insured than in other comparable cases, except for reasons~~
12 ~~applicable alike to persons of every marital status, sex, race, color,~~
13 ~~religion, national origin, sexual orientation, creed, disability,~~
14 ~~familial status, medical condition, ancestry, or any other~~
15 ~~characteristic listed in Section 51.5 of the Civil Code or Section~~
16 ~~12920 of the Government Code; nor shall marital status, sex, race,~~
17 ~~color, religion, national origin, ancestry, or any other characteristic~~
18 ~~listed in Section 51.5 of the Civil Code or Section 12920 of the~~
19 ~~Government Code of itself constitute a condition or risk for which~~
20 ~~a higher rate, premium, or charge may be required of the insured~~
21 ~~for such insurance.~~

22 ~~SEC. 2. Section 679.72 of the Insurance Code is amended to~~
23 ~~read:~~

24 ~~679.72. No application for insurance specified in this chapter~~
25 ~~or insurance investigation report furnished by such an insurer to~~
26 ~~its agents or employees for use in determining the insurability of~~
27 ~~the applicant shall carry any identification, or any requirement~~
28 ~~therefor, of the applicant's sex, race, color, religion, national~~
29 ~~origin, sexual orientation, creed, disability, familial status,~~
30 ~~medical condition, ancestry, or any other characteristic listed in~~
31 ~~Section 51.5 of the Civil Code or Section 12920 of the~~
32 ~~Government Code.~~

33 ~~SEC. 3. Section 679.73 of the Insurance Code is amended to~~
34 ~~read:~~

35 ~~679.73. Nothing in this chapter shall prohibit the use in an~~
36 ~~application for insurance specified in this chapter of a question~~
37 ~~asking for the birthplace of an applicant if such question is used~~
38 ~~only to identify the applicant and not to discriminate against the~~
39 ~~applicant.~~



1 ~~SEC. 4. Section 679.74 is added to the Insurance Code, to~~
2 ~~read:~~

3 ~~679.74. (a) This section shall apply to any policy of~~
4 ~~commercial insurance for multifamily housing developments~~
5 ~~intended for occupancy by persons and families of low and~~
6 ~~moderate income, as defined in Sections 50073, 50073.5, and~~
7 ~~50093 of the Health and Safety Code, or agricultural employees,~~
8 ~~as defined in subdivision (b) of Section 1140.4 of the Labor Code,~~
9 ~~and their families that covers risks arising from the ownership,~~
10 ~~construction, habitation, or other use of real property designed for~~
11 ~~human habitation on either a temporary or permanent basis,~~
12 ~~including any liability for loss of, damage to, or injury to, persons~~
13 ~~or property that occurs on that real property.~~

14 ~~(b) For the purposes of this section, “prohibited underwriting~~
15 ~~classification” means any of the following:~~

16 ~~(1) All the protected classes in Insurance Code 679.71.~~

17 ~~(2) The income level or source of income, including, but not~~
18 ~~limited to, federal vouchers issued under Section 8 of the United~~
19 ~~States Housing Act of 1937 (42 U.S.C. Sec. 1437f), of an~~
20 ~~individual or group of individuals residing or to reside upon~~
21 ~~property insured or to be insured by, a policy of insurance covered~~
22 ~~by this section.~~

23 ~~(3) The intended residency upon the property insured or to be~~
24 ~~insured by persons who require or will benefit from supportive~~
25 ~~services that may be provided onsite.~~

26 ~~(4) The fact that the construction or operation of the real~~
27 ~~property, or any portion thereof, is subsidized, financed, insured,~~
28 ~~or otherwise assisted by the federal or state government, or by a~~
29 ~~local public entity, as defined in Section 50079 of the Health and~~
30 ~~Safety Code.~~

31 ~~(5) The fact that an applicant or insured is organized under the~~
32 ~~Nonprofit Corporation Law (Division 2 (commencing with~~
33 ~~Section 5000) of the Corporations Code). The amount of rent~~
34 ~~charged to an individual or group of individuals residing or will~~
35 ~~reside upon property insured or to be insured by a policy of~~
36 ~~insurance covered by this section.~~

37 ~~(6) The amount of rent charged to an individual or group of~~
38 ~~individuals residing or will reside upon property insured or to be~~
39 ~~insured by a policy of insurance covered by this section.~~



1 ~~(c) An insurer meeting the criteria of subdivision (a) shall not~~
2 ~~use a prohibited underwriting classification to do any of the~~
3 ~~following:~~
4 ~~(1) Fail or refuse to accept an application or issue a policy to an~~
5 ~~applicant for, or otherwise make unavailable, any insurance~~
6 ~~covered by this chapter, unless the insurance is to be issued to the~~
7 ~~applicant by another insurer under the same management and~~
8 ~~control.~~
9 ~~(2) Cancel or fail to renew any insurance covered by this~~
10 ~~section.~~
11 ~~(3) Impose a rate, premium, or charge that is higher than that~~
12 ~~imposed with respect to other applicants, insureds, or insured~~
13 ~~properties.~~
14 ~~(4) Impose different requirements on an applicant for insurance~~
15 ~~covered by this chapter than it imposes on other applicants, except~~
16 ~~as provided in subdivision (d).~~
17 ~~(d) Nothing in this section shall be construed to prohibit any~~
18 ~~admitted insurer licensed to issue any policy of insurance covered~~
19 ~~by this chapter from extending preferential treatment to real~~
20 ~~property designed for human habitation that is assisted by the~~
21 ~~federal or state government, or by a local public entity, as defined~~
22 ~~in Section 50079 of the Health and Safety Code, or other real~~
23 ~~property intended for occupancy by persons and families of low~~
24 ~~and moderate income, as defined in Section 50093 of the Health~~
25 ~~and Safety Code, or agricultural employees, as defined in~~
26 ~~subdivision (b) of Section 1140.4 of the Labor Code, and their~~
27 ~~families.~~

