

AMENDED IN ASSEMBLY JUNE 27, 2005

AMENDED IN ASSEMBLY JUNE 16, 2005

AMENDED IN SENATE MAY 4, 2005

AMENDED IN SENATE APRIL 4, 2005

**SENATE BILL**

**No. 150**

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**Introduced by Senator Escutia**

February 7, 2005

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An act to amend ~~Sections 791.10 and 791.12~~ *Section 791.10* of the Insurance Code, relating to insurance underwriting.

LEGISLATIVE COUNSEL'S DIGEST

SB 150, as amended, Escutia. Insurance: adverse underwriting decisions.

Existing law requires that, in the event of an adverse underwriting decision, as defined, the insurance institution or agent responsible for the decision comply with certain requirements, including a requirement to either provide the consumer with the specific reasons for the adverse underwriting decision in writing or advise the person that upon written request he or she may receive the specific reasons in writing. Existing law requires the institution or agent, upon receipt of a written request, to provide the consumer with the specific items of personal and privileged information that support those reasons, except as specified.

This bill would require the insurance institution or agent to provide the reasons for the adverse underwriting decision in all instances.

~~Existing law prohibits an insurance institution or agent from basing an adverse underwriting decision on various types of information, including personal information received from an insurance support~~

~~organization whose primary source of information is insurance institutions, except as specified.~~

~~This bill would additionally prohibit an insurer, with respect to property insurance, from basing an adverse underwriting decision on information relating to a California claim that occurs on or after January 1, 2006, and that is received from an insurance-support organization, unless the information includes certain elements. It would prohibit property insurance claim information from being submitted to an insurance-support organization unless it is submitted in conjunction with the above information, except as specified.~~

~~The bill would make additional conforming changes.~~

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 791.10 of the Insurance Code is  
2 amended to read:  
3 791.10. (a) In the event of an adverse underwriting decision  
4 the insurance institution or agent responsible for the decision  
5 shall provide the applicant, policyholder, or individual proposed  
6 for coverage, in writing, at the time that the adverse action is  
7 communicated, with each of the following:  
8 (1) The specific reason or reasons for the adverse underwriting  
9 decision.  
10 (2) A summary of the rights established under Sections 791.08  
11 and 791.09.  
12 (3) The specific items of personal and privileged information  
13 that support the reason or reasons for the adverse underwriting  
14 decision; provided, however:  
15 (A) The insurance institution or agent shall not be required to  
16 furnish specific items of privileged information if it has a  
17 reasonable suspicion, based upon specific information available  
18 for review by the commissioner, that the applicant, policyholder  
19 or individual proposed for coverage has engaged in criminal  
20 activity, fraud, material misrepresentation or material  
21 nondisclosure.  
22 (B) Specific items of medical record information supplied by a  
23 medical care institution or medical professional shall be  
24 disclosed either directly to the individual about whom the

1 information relates or to a medical professional designated by the  
2 individual and licensed to provide medical care with respect to  
3 the condition to which the information relates, whichever the  
4 individual prefers.

5 Mental health record information shall be supplied directly to  
6 the individual, pursuant to this subdivision, only with the  
7 approval of the qualified professional person with treatment  
8 responsibility for the condition to which the information relates.

9 (4) The names and addresses of the institutional sources that  
10 supplied the specific items of information given pursuant to  
11 paragraph (3); provided, however, that the identity of any  
12 medical professional or medical care institution shall be  
13 disclosed either directly to the individual or to the designated  
14 medical professional, whichever the individual prefers.

15 (b) The obligations imposed by this section upon an insurance  
16 institution or agent may be satisfied by another insurance  
17 institution or agent authorized to act on its behalf.

18 (c) When an adverse underwriting decision results solely from  
19 an oral request or inquiry, the explanation of reasons and  
20 summary of rights required by subdivision (a) may be given  
21 orally to the extent that such information is available.

22 ~~SEC. 2. Section 791.12 of the Insurance Code is amended to~~  
23 ~~read:~~

24 ~~791.12. (a) No insurance institution or agent may base an~~  
25 ~~adverse underwriting decision in whole or in part on the~~  
26 ~~following:~~

27 ~~(1) On the fact of a previous adverse underwriting decision or~~  
28 ~~on the fact that an individual previously obtained insurance~~  
29 ~~coverage through a residual market mechanism; provided,~~  
30 ~~however, an insurance institution or agent may base an adverse~~  
31 ~~underwriting decision on further information obtained from an~~  
32 ~~insurance institution or agent responsible for a previous adverse~~  
33 ~~underwriting decision. The further information, when requested,~~  
34 ~~shall create a conclusive presumption that the information is~~  
35 ~~necessary to perform the requesting insurer's function in~~  
36 ~~connection with an insurance transaction involving the individual~~  
37 ~~and, when reasonably available, shall be furnished the requesting~~  
38 ~~insurer and the individual, if applicable.~~

39 ~~(2) On personal information received from an~~  
40 ~~insurance support organization whose primary source of~~

1 information is insurance institutions; provided, however, an  
2 insurance institution or agent may base an adverse underwriting  
3 decision on further personal information obtained as the result of  
4 information received from an insurance support organization.

5 ~~(3) For residential property coverage on a single-family  
6 dwelling, condominium unit, or residential renter's unit, on  
7 information that relates to a California claim occurring on or  
8 after July 1, 2006, and that is received from an insurance support  
9 organization whose primary source of information is insurance  
10 institutions, unless the information includes the following:~~

11 ~~(A) The date of loss.~~

12 ~~(B) Whether the claim is open or closed.~~

13 ~~(C) The relevant coverage peril and the description of the  
14 specific cause of the loss.~~

15 ~~(D) For property losses, identification of the area of the  
16 structure or property damaged, in a standard format prescribed by  
17 the insurance support organization.~~

18 ~~(E) The address of the damaged property, if applicable.~~

19 ~~(F) The monetary amount of damages paid, or if open,  
20 reserved.~~

21 ~~(G) If known, an indication of whether repairs were or were  
22 not completed.~~

23 ~~(4) On the fact that an individual has previously inquired and  
24 received information about the scope or nature of coverage under  
25 a residential fire or property insurance policy, if the information  
26 is received from an insurance support organization whose  
27 primary source of information is insurance institutions and the  
28 inquiry did not result in the filing of a claim.~~

29 ~~(b) (1) Except as provided in paragraph (2), no information  
30 with respect to a claim regarding residential property coverage on  
31 a single-family dwelling condominium unit, or residential  
32 renter's unit shall be submitted by an insurance institution or  
33 agent to an insurance support organization whose primary source  
34 of information is insurance institutions unless all information  
35 required by paragraph (3) of subdivision (a) is submitted in  
36 conjunction with the claim information.~~

37 ~~(2) Paragraph (1) shall not apply if the claim is withdrawn or  
38 denied before all of the applicable data is collected by the~~

- 1 ~~insurer, and the claim information submitted specifically~~
- 2 ~~identifies the claim as withdrawn or denied.~~

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