Assembly Bill No. 1906

Passed the Assembly May 28, 2008

Chief Clerk of the Assembly

Passed the Senate August 13, 2008

Secretary of the Senate

This bill was received by the Governor this ____ day of ______________, 2008, at _____ o'clock ___M.

Private Secretary of the Governor

CHAPTER ________

An act to amend Section 100 of, and to add Section 124.6 to, the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1906, Salas. Insurance: identity theft.

Existing law divides insurance in California into various classes, including, among others, life, fire, marine, title, automobile, and mortgage. Under existing law, a person is prohibited from transacting any class of insurance without first procuring a certificate of authority from the Insurance Commissioner admitting the insurer for that class.

This bill would add identity theft to the above list of insurance classes. The bill would provide that identity theft insurance includes insurance against costs associated with reestablishing credit, reclaiming financial identity, and communicating with banks, credit agencies, and other financial institutions, as specified. The bill would also set forth related findings regarding identity theft.

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Identity theft is one of the fastest growing financial crimes in the United States. An estimated 9.9 million Americans fall victim to identity theft each year.

(b) Victims of identity theft come from all walks of life, regardless of age, race, or sex.

(c) The process of recovering from identity theft is long, costly, and in many cases, very stressful. The Identity Theft Resource Center reported in 2005, on average, an identity theft victim of a new account and other fraud spent up to 60 hours resolving problems brought on by identity theft, and those victims of existing accounts spent an average of 15 hours resolving problems.

(d) A 2003 Federal Trade Commission study found that identity theft costs United States businesses nearly forty-eight billion dollars

($48,000,000,000) annually and consumers an additional five billion dollars ($5,000,000,000) per year.

(e) The Federal Trade Commission has reported that identity theft is the leading consumer fraud complaint tracked by law enforcement agencies across the country.

(f) In response to the growing consumer concern of identity theft, a new type of insurance has been offered, called identity theft insurance.

(g) Identity theft insurance cannot protect an individual from having their personal information stolen. The insurance typically offers assistance to victims of identity theft to reestablish their credit and cover the expenses associated with reclaiming financial identity, ranging from long-distance phone calls to the cost of hiring an attorney.

(h) The number of companies offering identity theft insurance has increased in the past several years.

(i) In August 2007, the California Public Employees' Retirement System (CalPERS) was victim to a data security breach and in response to that incident, they purchased a one-year identity theft insurance policy for all their customers subject to the breach. CalPERS plans to do a followup study of customer satisfaction with the policy.

(j) The increase in identity theft insurance policies and the number of consumers purchasing these policies has raised the question if current law is sufficient to protect consumers in their purchase of identity theft insurance. California law does not have a direct reference to identity theft insurance, and it is important that the Department of Insurance has adequate oversight of this new product.

SEC. 2. Section 100 of the Insurance Code is amended to read:

100. Insurance in this state is divided into the following classes:

(a) Life.

(b) Fire.

(c) Marine.

(d) Title.

(e) Surety.

(f) Disability.

(g) Plate glass.

(h) Liability.

(i) Workers' compensation.

(j) Common carrier liability.
(k) Boiler and machinery.
(*l*) Burglary.
(m) Credit.
(n) Sprinkler.
(o) Team and vehicle.
(p) Automobile.
(q) Mortgage.
(r) Aircraft.
(s) Mortgage guaranty.
(t) Insolvency.
(u) Legal insurance.
(v) Miscellaneous.
(w) Identity theft.

SEC. 3. Section 124.6 is added to the Insurance Code, to read:

124.6. (a) Identity theft insurance includes insurance against costs associated with reestablishing credit, reclaiming financial identity, and communicating with banks, credit agencies, and other financial institutions, which are directly associated with victims of identity theft.

(b) For purposes of this section, "identity theft" means the unauthorized use of another person's personal identifying information to obtain credit, goods, services, money, or property.

Approved ______________________________, 2008

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Governor