

Senate Bill No. 316

CHAPTER 431

An act to amend Sections 923.5 and 11558 of the Insurance Code, and to add Section 77.7 to the Labor Code, relating to insurance.

[Approved by Governor October 10, 2007. Filed with
Secretary of State October 10, 2007.]

LEGISLATIVE COUNSEL'S DIGEST

SB 316, Yee. Insurance.

Existing law requires insurers to maintain certain minimum reserves for outstanding losses and loss expenses for various coverages included in the lines of business described in the annual statement.

This bill would delete workers' compensation insurance from this requirement.

Existing law provides that the Commission on Health and Safety and Workers' Compensation shall conduct a continuing examination of the workers' compensation system, as specified, and issue an annual report to be made available to the Governor, the Legislature, and the public, upon request.

This bill would require the commission to examine the causes of the number of insolvencies among workers' compensation insurers within the past 10 years. It would require that by June 1, 2009, the report be published on its Internet Web site, and the Legislature and Governor be informed of its availability.

The bill would specify the content, method of obtaining data, confidentiality of data, maximum cost, and other information relating to the report. This bill, by authorizing the payment of one-half the costs for the report, as specified, from the Workers' Compensation Administration Revolving Fund, would make an appropriation.

Appropriation: yes.

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

SECTION 1. Section 923.5 of the Insurance Code is amended to read:

923.5. Each insurer transacting business in this state shall at all times maintain reserves in an amount estimated in the aggregate to provide for the payment of all losses and claims for which the insurer may be liable, and to provide for the expense of adjustment or settlement of losses and claims.

The reserves shall be computed in accordance with regulations made from time to time by the commissioner. The promulgation of the regulations by

the commissioner, or any changes thereto or amendments thereof, shall be in accordance with the procedure provided in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The commissioner shall make the regulations upon reasonable consideration of the ascertained experience and the character of such kinds of business for the purpose of adequately protecting the insured and securing the solvency of the insurer.

With respect to liability and common carrier liability, the regulations shall be consistent with Section 11558.

The commissioner may prescribe the manner and form of reporting pertinent information concerning the reserves provided for in this section.

This section shall not apply to life insurance, title insurance, disability insurance, mortgage insurance, or mortgage guaranty insurance.

SEC. 2. Section 11558 of the Insurance Code is amended to read:

11558. The minimum reserve requirements prescribed by the commissioner in regulations promulgated pursuant to Section 923.5 for outstanding losses and loss expenses for each of the most recent three years for coverages included in the lines of business described in the annual statement as liability other than automobile bodily injury, and for automobile liability bodily injury, shall be not less than 60 percent of earned premiums during each year less the amount already paid for losses and expenses incidental thereto incurred during each such year.

The commissioner may prescribe the manner and form of reporting pertinent information concerning the reserves provided for in this section.

SEC. 3. Section 77.7 is added to the Labor Code, to read:

77.7. (a) A study shall be undertaken to examine the causes of the number of insolvencies among workers' compensation insurers within the past 10 years. The study shall be conducted by an independent research organization under the direction of the commission. Not later than July 1, 2009, the commission and the department shall publish the report of the study on its Internet Web site and shall inform the Legislature and the Governor of the availability of the report.

(b) The study shall include an analysis of the following: the access to capital for workers' compensation insurance from all sources between 1993 and 2003; the availability, source, and risk assumed of reinsurers during this period; the use of deductible policies and their effect on solvency regulation; market activities by insurers and producers that affected market concentration; activities, including financial oversight of insurers, by insurance regulators and the National Association of Insurance Commissioners during this period; the quality of data reporting to the commissioner's designated statistical agent and the accuracy of recommendations provided by the commissioner's designated statistical agent during this period of time; and underwriting, claims adjusting, and reserving practices of insolvent insurers. The study shall also include a survey of reports of other state agencies analyzing the insurance market response to rising system costs within the applicable time period.

(c) Data reasonably required for the study shall be made available by the California Insurance Guarantee Association, Workers' Compensation Insurance Rating Bureau, third-party administrators for the insolvent insurers, whether prior to or after the insolvency, the State Compensation Insurance Fund, and the Department of Insurance. The commission shall also include a survey of reports by the commission and other state agencies analyzing the insurance market response to rising system costs within the applicable period of time.

(d) The cost of the study is not to exceed one million dollars (\$1,000,000). Confidential information identifiable to any natural person or insurance company held by any agency or organization or association or other person or entity shall be released to researchers upon satisfactory agreement to maintain confidentiality. Information or material that is not subject to subpoena from the agency or organization or association or other person or entity shall not be subject to subpoena from the commission or the contracted research organization.

(e) The costs of the study shall be borne one-half by the commission from funds derived from the Workers' Compensation Administration Revolving Fund and one-half by insurers from assessments allocated to each insurer based on the insurer's proportionate share of the market as shown by the Market Share Report for Calendar Year 2006 published by the Department of Insurance.

(f) In order to protect individual company trade secrets, this study shall not lead to the disclosure of, either directly or indirectly, the business practices of any company that provides data pursuant to this section. This prohibition shall not apply to insurance companies that have been ordered by a court of competent jurisdiction to be placed in liquidation under the supervision of a liquidator or other authority.