

Assembly Bill No. 1597

Passed the Assembly May 13, 2010

Chief Clerk of the Assembly

Passed the Senate August 11, 2010

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 11620, 11622.5, 11629.81, 11629.84, and 11629.85 of the Insurance Code, and to amend Sections 16020.1 and 16020.2 of the Vehicle Code, relating to automobile insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1597, Jones. Automobile insurance: assigned risk plans: low-cost automobile insurance.

(1) Existing law provides for the formation of the California Automobile Assigned Risk Plan for automobile bodily injury and property damage liability insurance.

The Insurance Commissioner, after a public hearing, is required to approve or issue a reasonable plan for the equitable apportionment, among insurers admitted to transact liability insurance, of those applicants for automobile bodily injury and property damage liability insurance who are, in good faith, entitled to but are unable to procure that insurance through ordinary methods. Notice of the public hearing is required to be published at least 60 days prior to the hearing or close of the public comment period on the adoption, amendment, or repeal of a regulation, in 2 newspapers of general circulation, one published in the City and County of San Francisco, and the other published in the City of Los Angeles.

This bill would delete the notice requirement, and require that the hearings be conducted in accordance with the Administrative Procedure Act.

Existing law requires the assigned risk plan to provide for effective dates of coverage, consistent with the required elements, including execution of the application forms and an electronic effective date procedure established by the plan. The insurance application form is also required to include a disclosure regarding the effective date of coverage.

This bill would modify the notice and the effective dates of coverage requirements, as provided.

(2) Existing law establishes, within the California Automobile Assigned Risk Plan, a low-cost automobile insurance program.

Existing law establishes the low-cost automobile insurance program in several specified counties and makes the expansion to all other counties in California subject to a determination of need made by the commissioner following a public meeting, as specified. Existing law provides for the issuance of automobile liability policies pursuant to this program under specified terms and conditions, and provides that a policy so issued satisfies specified requirements regarding financial responsibility. Existing law provides that the low-cost automobile insurance program shall remain in effect only until January 1, 2011.

This bill would provide that the low-cost automobile insurance program would remain in effect until January 1, 2016.

Existing law requires the commissioner, on or before March 1 of each year, to prepare and propose a plan to the Senate Committee on Banking, Finance, and Insurance and the Assembly Committee on Insurance setting forth the methods the commissioner intends to implement to inform households eligible for the program about the availability of low-cost automobile insurance. The plan is required to contain specified information, including the most recent annual report to the Legislature on the status of the low-cost automobile insurance program from the California Automobile Assigned Risk Plan.

This bill would delete the most recent annual report to the Legislature on the status of the low-cost automobile insurance program from the California Automobile Assigned Risk Plan from the information required to be contained in the plan.

(3) Existing law, on and after January 1, 2011, makes certain automobile insurance proof of financial responsibility requirements no longer applicable to people in the County of Los Angeles and the City and County of San Francisco.

This bill would extend the repeal date to January 1, 2016.

(4) This bill would make conforming changes and delete obsolete provisions.

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

SECTION 1. Section 11620 of the Insurance Code is amended to read:

11620. (a) The commissioner, after a public hearing, shall approve or issue a reasonable plan for the equitable apportionment,

among insurers admitted to transact liability insurance, of those applicants for automobile bodily injury and property damage liability insurance who are in good faith entitled to but are unable to procure that insurance through ordinary methods. The commissioner shall require the payment of five hundred ninety dollars (\$590), in advance, as a fee for the filing of amendments to the plan with the commissioner. The commissioner may approve or issue reasonable amendments to the plan if he or she first holds a public hearing to determine whether the amendments are in keeping with the intent and purpose of this section. All such insurers shall subscribe to the plan and its amendments and participate in the plan.

(b) Judicial review of rate revision proceedings shall be in accordance with Section 1858.6.

(c) Public hearings held pursuant to this section shall be conducted in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 2. Section 11622.5 of the Insurance Code is amended to read:

11622.5. The plan shall provide for effective dates for coverage consistent with all of the following:

(a) Except as provided in this section, in no event shall coverage be effective prior to the date and time of execution of the application forms. Postage meter or United States Postal Service postmarks shall not be recognized by the plan as establishing effective dates.

(b) (1) When the applicant requires that coverage be effective immediately, the effective date and time shall be established using an electronic effective date procedure established by the plan. The plan shall establish a future effective date using the electronic effective date procedure. The future effective date option shall be available upon request by an applicant. An applicant may request a future effective date of 45 days or less from the date of application completion.

(2) The manager of the plan shall ensure access at no cost to the user as part of the electronic effective date procedure. The manager shall maintain sufficient capacity to service, in a timely

manner, applications received by means of the electronic effective date procedure.

(3) The electronic effective date procedure shall be available only to producers of record who are certified by the plan and shall include a procedure to prevent fraudulent applications.

(4) A producer of record shall have a duty to comply with the requirements of this section within 24 hours of the date and time the application is completed and executed.

(c) Coverage for vehicles shall become effective at the date and time the application is transmitted through the plan's electronic effective date procedure if and only if all of the following requirements are met:

(1) The producer of record and the applicant certify under penalty of perjury on the application the date and time that the application forms were completed and executed.

(2) The producer of record uses the electronic effective date procedure adopted pursuant to subdivision (b).

(3) The application forms and required deposit are submitted to the plan manager no later than two working days following the date the application forms are completed and executed. The submission date is established in accordance with the procedure established by the plan.

(d) If the application is made without using the electronic effective date procedure or if there is not compliance with the provisions of subdivision (c), coverage shall be effective in accordance with an alternative procedure established by the plan, but not later than 12:01 a.m. on the date following receipt of the application in the plan office unless a later date is requested.

(e) If the applicant desires coverage on a date later than that which would otherwise be fixed pursuant to this section, the applicant shall indicate that date and the plan manager shall fix the effective date of coverage as of 12:01 a.m. on the desired date of coverage. However, no date shall be later than 45 days after the date of application.

(f) The effective date for coverage for an additional vehicle to be added to an in-force policy or for other coverage to be added to an in-force policy shall not be subject to the requirements of this section, but shall be governed by the terms of the policy and other applicable laws and regulations.

(g) In order to provide evidence of a requested effective date, the plan shall establish a procedure for the maintenance of appropriate records of all risks for which the producer of record has designated the time and date of coverage.

(h) Where the plan's electronic effective date procedure is disrupted due to failure of transmission or receiving equipment due to fire, earthquake, explosion, civil unrest, or similar disaster or emergency, the producer of record may bind coverage up to one day prior to the time the application forms and required deposit are mailed to the plan manager, as established by the United States Postal Service postmark on the envelope in which the application was enclosed.

(i) Notwithstanding any other provision of this section, where the producer of record discovers a material error in an application, the producer of record shall be authorized to rescind coverage bound for a period up to 24 hours after the date and time established pursuant to the plan's electronic effective date procedure.

(j) To ensure compliance with the electronic effective date procedure, application forms shall contain the following statement in 12-point boldface type:

IMPORTANT NOTICE

THIS POLICY IS NOT EFFECTIVE UNTIL YOUR APPLICATION IS ELECTRONICALLY TRANSMITTED TO THE PLAN BY YOUR AGENT OR BROKER. THE FOLLOWING CONDITIONS MUST ALSO BE MET:

(1) BOTH YOU AND YOUR AGENT OR BROKER MUST SIGN AND DATE A PROPERLY COMPLETED APPLICATION.

(2) YOUR AGENT OR BROKER MUST TRANSMIT YOUR APPLICATION TO THE PLAN WITHIN TWO DAYS OF ITS COMPLETION.

YOU MAY REQUEST THAT YOUR AGENT OR BROKER TRANSMIT THE DOCUMENTS IN YOUR PRESENCE TO ENSURE IMMEDIATE COVERAGE, PROVIDED THE ABOVE REQUIREMENTS ARE MET.

IF THE ABOVE REQUIREMENTS ARE NOT MET, THE EFFECTIVE DATE OF YOUR COVERAGE MAY BE DELAYED.

SEC. 3. Section 11629.81 of the Insurance Code is amended to read:

11629.81. The California Automobile Assigned Risk Plan shall report to the Legislature on an annual basis, and at those additional times as it deems prudent, on the status of the program.

SEC. 4. Section 11629.84 of the Insurance Code is amended to read:

11629.84. This article shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.

SEC. 5. Section 11629.85 of the Insurance Code is amended to read:

11629.85. (a) On or before March 1 of each year, the commissioner shall prepare and propose a plan to the Senate Committee on Banking, Finance, and Insurance and the Assembly Committee on Insurance setting forth the methods the commissioner intends to implement to inform households eligible for the program about the availability of low-cost automobile insurance. To be eligible for funding through the budget process, the plan shall be reviewed by the Senate Committee on Banking, Finance, and Insurance and the Assembly Committee on Insurance. The information required under subdivision (c) shall also be provided to the Senate Committee on Transportation and Housing and the Assembly Committee on Transportation.

(b) The plan shall include, at a minimum, a brief description of methods proposed to be used, anticipated costs, sources of revenue, goals, targets, objectives, and a justification of the proposed methods. The plan shall also explain how the department proposes to work in cooperation with the California Automobile Assigned Risk Plan, the social service departments in eligible counties, the Department of Motor Vehicles, and community-based organizations in order to inform eligible households of the existence of the program.

(c) The plan shall also include all of the following:

(1) The commissioner's determination regarding whether the program has been successful, based on the criteria specified in

subdivision (d), and an explanation regarding that success or lack thereof.

(2) In cooperation with the California Automobile Assigned Risk Plan, structural characteristics of the program that may require statutory revision in order for the program to succeed or to improve upon existing success.

(3) Impediments to success of the program that can reasonably be overcome by revision to the strategies adopted by the department.

(4) A detailed explanation of the department's use for the program of funds assessed pursuant to Section 1872.81.

(5) For the previous calendar year, a list of the total low-cost auto premium for each county in which the program was available.

(d) The program is successful if the following occur:

(1) The program generated sufficient premiums to cover losses incurred under policies issued under the program, and expenses incurred by the program, as calculated pursuant to subdivision (c) of Section 11629.72.

(2) The program served the public purpose of offering access to automobile insurance to otherwise underserved communities in the program areas.

(3) The program offered access to automobile insurance to previously uninsured motorists seeking affordable coverage in the program areas.

(4) The program's outreach efforts lead uninsured motorists to contact a producer, and the driver obtains any auto insurance policy that complies with California law.

(e) Any written or oral advertisements, including, but not limited to, paid or unpaid commercial or noncommercial advertising, by the department with reference to the low-cost automobile insurance program shall reference the department and shall not reference the commissioner by name or office, or include the commissioner's voice, image, or likeness. The department shall not participate with any nongovernmental entity that produces or intends to produce advertisements or educational material that include the name of the commissioner or his or her voice, image, or likeness, and that are intended to make eligible households aware of the existence of low-cost automobile insurance.

SEC. 6. Section 16020.1 of the Vehicle Code is amended to read:

16020.1. (a) On and after January 1, 2016, Section 4000.37 does not apply to vehicle owners with a residence address in the County of Los Angeles at the time of registration renewal.

(b) On and after January 1, 2016, subdivisions (a) and (b) of Section 16028 do not apply to a person who drives a motor vehicle upon a highway in the County of Los Angeles.

SEC. 7. Section 16020.2 of the Vehicle Code is amended to read:

16020.2. (a) On and after January 1, 2016, Section 4000.37 does not apply to vehicle owners with a residence address in the City and County of San Francisco at the time of registration renewal.

(b) On and after January 1, 2016, subdivisions (a) and (b) of Section 16028 do not apply to a person who drives a motor vehicle upon a highway in the City and County of San Francisco.

Approved _____, 2010

Governor