An act to amend Sections 100, 700.01, 739, and 1063 of, to add Section 119.7 to, and to add Part 9 (commencing with Section 12880) to Division 2 of, the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL’S DIGEST

AB 2411, as introduced, Jones. Pet insurance.
Existing law provides for the regulation of various types of insurance by the Department of Insurance.
This bill would provide for the regulation of pet insurance, as defined. The bill would prohibit a pet insurer from excluding coverage on the basis of a preexisting condition provision for a period beyond 6 months following the insured’s effective date of coverage and would specify that a preexisting condition provision may only relate to conditions for which medical advice, diagnosis, care, or treatment, including, but not limited to, use of prescription drugs, was recommended or received from a veterinarian during the 6 months immediately preceding the effective date of coverage. The bill would authorize a pet insurer that does not utilize a preexisting condition provision to impose a waiting or affiliation period of no more than 30 days. The bill would require a pet insurer to provide specified reimbursement for covered veterinary expenses incurred by an insured and would also require a pet insurer to make a reasonable disclosure, as part of its solicitation and sales materials, of certain terms and conditions contained in its pet insurance policies, as specified. The bill would enact other related conforming provisions.
The people of the State of California do enact as follows:

SECTION 1. Section 100 of the Insurance Code is amended to read:

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

1. Life
2. Fire
3. Marine
4. Title
5. Surety
6. Disability
7. Plate glass
8. Liability
9. Workmen’s compensation
10. Common carrier liability
11. Boiler and machinery
12. Burglary
13. Credit
14. Sprinkler
15. Team and vehicle
16. Automobile
17. Mortgage
18. Aircraft
19. Mortgage guaranty
19.5. Insolvency
19.6. Legal insurance
19.7. Pet insurance
20. Miscellaneous

SEC. 2. Section 119.7 is added to the Insurance Code, to read:

119.7. “Pet insurance” has the same meaning as that term is defined in Section 12880.

SEC. 3. Section 700.01 of the Insurance Code is amended to read:

700.01. In addition to any or all of the classes of insurance which that it is permitted to transact by all other applicable provisions of this code, any incorporated insurer admitted or hereafter admitted for one or more of the classes of insurance stated.
in Section 100, except life, title, mortgage, or mortgage guaranty,
shall (subject to any limitations contained in its articles of
incorporation or charter) be admitted after January 1, 1990, for
any or all of the following classes, upon making application
therefor and complying with all applicable requirements of law,
if its paid-in capital is not less than two million six hundred
thousand dollars ($2,600,000) or the aggregate of the amounts
hereinafter set forth opposite the classes transacted by it in the
United States if an alien insurer, or in any jurisdiction if other than
an alien insurer, whichever is lower; provided, that the paid-in
capital of incorporated insurers not transacting either fire, marine
or surety insurance making application under this section shall be
at least three hundred thousand dollars ($300,000) in excess of
that aggregate amount. In no event shall any incorporated insurer,
as a condition for its admission, be permitted to have a paid-in
capital of less than one million dollars ($1,000,000) or be required
to have a paid-in capital in excess of two million six hundred
thousand dollars ($2,600,000) for any or all of the classes of
insurance hereinafter set forth.

<table>
<thead>
<tr>
<th>Number and name of class</th>
<th>Amount of capital</th>
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<tbody>
<tr>
<td>2. Fire</td>
<td>$350,000</td>
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<tr>
<td>3. Marine</td>
<td>350,000</td>
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<tr>
<td>5. Surety</td>
<td>350,000</td>
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<tr>
<td>6. Disability</td>
<td>250,000</td>
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<tr>
<td>7. Plate glass</td>
<td>100,000</td>
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<td>8. Liability</td>
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<tr>
<td>9. Workers’ compensation</td>
<td>300,000 for any or all of these</td>
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<tr>
<td>10. Common carrier liability</td>
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</tr>
<tr>
<td>11. Boiler and machinery</td>
<td>100,000</td>
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<tr>
<td>12. Burglary</td>
<td>100,000</td>
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<tr>
<td>13. Credit</td>
<td>100,000</td>
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<tr>
<td>14. Sprinkler</td>
<td>100,000</td>
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<td>15. Team and vehicle</td>
<td>100,000</td>
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<tr>
<td>16. Automobile</td>
<td>200,000</td>
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<tr>
<td>18. Aircraft</td>
<td>100,000</td>
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<tr>
<td>19. Pet</td>
<td>100,000</td>
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</tbody>
</table>
This section shall not be applicable to life, title, mortgage, or mortgage guaranty insurance, and an insurer now or hereafter admitted to transact life, title, mortgage, or mortgage guaranty insurance shall not be admitted under the provisions of this section, but its admission is governed by other applicable provisions of this code.

Insurers admitted for one or more classes of insurance on December 31, 1989, shall be governed by the provisions of this section in effect as of December 31, 1989, until December 31, 1999. After December 31, 1999, all insurers governed by this section shall meet the capital requirements of this section as become effective January 1, 1990. Insurers admitted for one or more classes of insurance on December 31, 1989, that thereafter amend their certificate of authority to add a class or classes of insurance shall become subject to the capital requirements of this section.

SEC. 4. Section 739 of the Insurance Code is amended to read:

As used in this article, these terms shall have the following meanings:

(a) “Adjusted RBC Report” means a Risk-Based Capital (RBC) report that has been adjusted by the commissioner in accordance with subdivision (c) of Section 739.2.

(b) “Corrective Order” means an order issued by the commissioner specifying corrective actions that the commissioner has determined are required.

(c) “Domestic insurer” means any life or health insurer or property and casualty insurer organized in this state.

(d) “Foreign insurer” means any life or health insurer or property and casualty insurer that is licensed to do business in this state but is not domiciled in this state.

(e) “Life or health insurer” means any admitted insurer issuing insurance subject to Part 2 (commencing with Section 10110) of Division 2, or a licensed property and casualty insurer writing only disability insurance.

(f) “NAIC” means the National Association of Insurance Commissioners.

(g) “Negative trend” means, with respect to a life or health insurer, a negative trend over a period of time, as determined in...
accordance with the “Trend Test Calculation” included in the RBC Instructions defined in subdivision (i).

(h) “Property and casualty insurer” means any admitted insurer writing insurance as described in Section 102, 103, 105, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 118, 119.5, 119.6, 119.7, or 120, but does not include monoline mortgage guaranty insurers, financial guaranty insurers, or title insurers.

(i) “RBC Instructions” means the RBC Report, including risk-based capital instructions adopted by the NAIC, and as the RBC Instructions may be amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC.

(j) “RBC Level” means an insurer’s Company Action Level RBC, Regulatory Action Level RBC, Authorized Control Level RBC, or Mandatory Control Level RBC where:

(1) “Company Action Level RBC” means, with respect to any insurer, the product of 2.0 and its Authorized Control Level RBC.

(2) “Regulatory Action Level RBC” means the product of 1.5 and its Authorized Control Level RBC.

(3) “Authorized Control Level RBC” means the number determined under the risk-based capital formula in accordance with the RBC Instructions.

(4) “Mandatory Control Level RBC” means the product of .70 and the Authorized Control Level RBC.

(k) “RBC Plan” means a comprehensive financial plan containing the elements specified in subdivision (b) of Section 739.3. If the commissioner rejects the RBC Plan, and it is revised by the insurer, with or without the commissioner’s recommendation, the plan shall be called the “Revised RBC Plan.”

(l) “RBC Report” means the report required in Section 739.2.

(m) “Total Adjusted Capital” means the sum of:

(1) An insurer’s statutory capital and surplus.

(2) Other items, if any, that the RBC Instructions may provide.

SEC. 5. Section 1063 of the Insurance Code is amended to read:

1063. (a) Within 60 days after the original effective date of this article, all insurers, including reciprocal insurers, admitted to transact insurance in this state of any or all of the following classes only in accordance with the provisions of Chapter 1 (commencing with Section 100) of Part 1 of this division: fire (see Section 102), marine (see Section 103), plate glass (see Section 107), liability
(see Section 108), workers’ compensation (see Section 109),
common carrier liability (see Section 110), boiler and machinery
(see Section 111), burglary (see Section 112), sprinkler (see Section
114), team and vehicle (see Section 115), automobile (see Section
116), aircraft (see Section 118), pet (see Section 119.7), and
miscellaneous (see Section 120), shall establish the California
Insurance Guarantee Association (the association); provided,
however, this article shall not apply to the following classes or
kinds of insurance: life and annuity (see Section 101), title (see
Section 104), fidelity or surety including fidelity or surety bonds,
or any other bonding obligations (see Section 105), disability or
health (see Section 106), credit (see Section 113), mortgage (see
Section 117), mortgage guaranty, insolvency or legal (see Section
119), financial guaranty or other forms of insurance offering
protection against investment risks (see Section 124), the ocean
marine portion of any marine insurance or ocean marine coverage
under any insurance policy including the following: the Jones Act
(46 U.S.C. Sec. 688), the Longshore and Harbor Workers’
Compensation Act (33 U.S.C. Sec. 901 et seq.), or any other similar
federal statutory enactment, or any endorsement or policy affording
protection and indemnity coverage, or reinsurance as defined in
Section 620, or fraternal fire insurance written by associations
organized and operating under Sections 9080 to 9103, inclusive.
Any insurer admitted to transact only those classes or kinds of
insurance excluded from this article shall not be a member insurer
of the association. Each insurer admitted to transact a class of
insurance included in this article, including the State Compensation
Insurance Fund, as a condition of its authority to transact insurance
in this state, shall participate in the association whether established
voluntarily or by order of the commissioner after the elapse of 60
days following the original effective date of this article in
accordance with rules to be established as provided in this article.
It shall be the purpose of the association to provide for each
member insurer insolvency insurance as defined in Section 119.5.
(b) The association shall be managed by a board of governors,
composed of nine member insurers, each of which shall be
appointed by the commissioner to serve initially for terms of one,
two, or three years and thereafter for three-year terms so that three
terms shall expire each year on December 31, and shall continue
in office until his or her successor shall be appointed and qualified.
At least five members of the board shall be domestic insurers. At least three of the members shall be stock insurers, and at least three shall be nonstock insurers. The nine members shall be representative, as nearly as possible, of the classes of insurance and of the kinds of insurers covered by this article. In case of a vacancy for any reason on the board, the commissioner shall appoint a member insurer to fill the unexpired term. In addition to the nine member insurers, the membership of the board shall also include one public member appointed by the President pro Tempore of the Senate, one public member appointed by the Speaker of the Assembly, one business member appointed by the commissioner, and one labor member appointed by the commissioner.

(c) The association shall adopt a plan of operations, and any amendments thereto, not inconsistent with the provisions of this article, necessary to assure the fair, reasonable, and equitable manner of administering the association, and to provide for other matters as are necessary or advisable to implement the provisions of this article. The plan of operations and any amendments thereto shall be subject to prior written approval by the commissioner. All members of the association shall adhere to the plan of operation.

(d) If for any reason the association fails to adopt a suitable plan of operation within 90 days following the original effective date of this article, or if at any time thereafter the association fails to adopt suitable amendments to the plan of operation, the commissioner shall after hearing adopt and promulgate reasonable rules as are necessary or advisable to effectuate the provisions of this chapter. These rules shall continue in force until modified by the commissioner after hearing or superseded by a plan of operation, adopted by the association and approved by the commissioner.

(e) In accordance with its plan of operation, the association may designate one or more of its members as a servicing facility, but a member may decline this designation. Each servicing facility shall be reimbursed by the association for all reasonable expenses it incurs and for all payments it makes on behalf of the association. Each servicing facility shall have authority to perform any functions of the association that the board of governors lawfully may delegate to it and to do so on behalf of and in the name of the association. The designation of servicing facilities shall be subject to the approval of the commissioner.
(f) The association shall have authority to borrow funds when necessary to effectuate the provisions of this article, and may provide in its plan of operations for any of the following:
   (1) The issuance of notes, bonds, or debentures, or the establishment of a special purpose trust or other entity, solely for the purpose of facilitating a financing.
   (2) The securing of that borrowing or those notes, bonds, or debentures by pledging or granting liens or mortgages, or by otherwise encumbering its real or personal property, including, but not limited to, premiums levied under Section 1063.5.

(g) The association, either in its own name or through servicing facilities, may be sued and may use the courts to assert or defend any rights the association may have by virtue of this article as reasonably necessary to fully effectuate the provisions thereof.

(h) The association shall have the right to intervene as a party in any proceeding instituted pursuant to Section 1016 wherein liquidation of a member insurer as defined in Section 1063.1 is sought.

(i) (1) The association shall have an annual audit of its financial condition conducted by an independent certified public accountant. The audit shall be conducted, to the extent possible, in accordance with generally accepted auditing standards (GAAS) and the report of the audit shall be submitted to the commissioner.
   (2) The association shall annually audit at least one-third of the service companies retained by the association to adjust claims of insolvent insurers. The audits shall (A) assure that all covered claims are being investigated, adjusted, and paid in accordance with customary industry standards and practices and all applicable statutes, rules and regulations, and (B) examine the management and supervisory systems overseeing the claims functions. The audits shall be conducted by the association or an independent auditor, provided that the three largest service companies, as measured by the number of claims processed for the association during the previous three fiscal years, shall be audited by an independent auditor at least once every three years. The association shall implement systems to retain independent auditing firms for the purpose of this paragraph, provided that no one firm is designated or utilized as an exclusive provider. Audits conducted pursuant to this paragraph shall be submitted annually to the commissioner for review.
(j) The commissioner shall examine the association to the same extent as, and in accordance with, the requirements of Article 4 (commencing with Section 730) of Chapter 1 of Part 2 of Division 2, which sets forth the examination requirements applicable to admitted insurers. A copy of the examination report shall be filed with the Chairpersons of the Senate and Assembly Committees on Insurance no later than December 31 of the year the report is completed.

SEC. 6. Part 9 (commencing with Section 12880) is added to Division 2 of the Insurance Code, to read:

PART 9. PET INSURANCE

12880. For purposes of this part, the following definitions shall apply:

(a) “Pet insurance” means an individual or group insurance policy that provides coverage for veterinary expenses.

(b) “Veterinarian” means an individual who holds a valid license to practice veterinary medicine from the Veterinary Medical Board pursuant to Chapter 11 (commencing with Section 4800) of Division 2 of the Business and Professions Code or other appropriate licensing entity in the jurisdiction in which he or she practices.

(c) “Veterinary expenses” means the costs associated with any medical advice, diagnosis, care, or treatment provided by a veterinarian, including, but not limited to, the cost of drugs prescribed by a veterinarian.

(d) “Hereditary disorder” means an abnormality that is genetically transmitted from parent to offspring and may cause illness or disease.

(e) “Reasonable and customary charges” means the average amounts charged by veterinarians for veterinary expenses as identified in any respected source of the veterinary industry, including, but not limited to, the sixth edition, or any subsequent edition, of the American Animal Hospital Association’s Veterinary Fee Reference.

12880.1. A policy of pet insurance that is marketed, issued, amended, renewed, or delivered to a resident of this state on or after January 1, 2011, regardless of the situs of the contract or master group policyholder, shall be subject to this part.
12880.2. (a) A pet insurer shall not exclude coverage on the basis of a preexisting condition provision for a period beyond six months following the insured’s effective date of coverage. A preexisting condition provision contained in a pet insurance policy may only relate to conditions for which medical advice, diagnosis, care, or treatment, including, but not limited to, use of prescription drugs, was recommended or received from a veterinarian during the six months immediately preceding the effective date of coverage.

(b) A pet insurer that does not utilize a preexisting condition provision may impose a waiting or affiliation period not to exceed 30 days before the coverage subject to this part shall become effective. During the waiting or affiliation period, the insurer is not required to provide coverage for veterinary expenses and no premium shall be charged to the policyholder or insured.

12880.3. A pet insurer shall do one of the following:

(a) Provide reimbursement for the covered veterinary expenses incurred by the insured without limitation, except for any applicable coinsurance.

(b) Provide reimbursement for the covered veterinary expenses incurred by the insured, limited by any applicable coinsurance and one of the following:

1. The reasonable and customary charges for the veterinary expenses incurred by the insured, as established in the geographic area or metropolitan status where the expenses were incurred. The insurer shall clearly disclose the source of those reasonable and customary charges.

2. The insurer’s benefit schedule which, if used, must include a side-by-side comparison between that schedule and the reasonable and customary charges for the veterinary expenses incurred by the insured, as established in the geographic area or metropolitan status where the expenses were incurred. The insurer shall also clearly disclose the source of the reasonable and customary charges.

12880.4. In connection with the offering for sale of a pet insurance policy, an insurer shall make a reasonable disclosure, as part of its solicitation and sales materials, of the terms and conditions relating to any preexisting condition provision, hereditary disorder provision, waiting or affiliation period provision, deductible provision, coinsurance provision, coverage limit provision, and benefit schedule provision contained in the
policy. The disclosures required by this section shall be in addition to any other disclosures required by law.