

**ASSEMBLY BILL**

**No. 2411**

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**Introduced by Assembly Member Jones**

February 19, 2010

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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.

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 100 of the Insurance Code is amended  
2 to read:  
3 100. Insurance in this state is divided into the following classes:  
4 (1) Life  
5 (2) Fire  
6 (3) Marine  
7 (4) Title  
8 (5) Surety  
9 (6) Disability  
10 (7) Plate glass  
11 (8) Liability  
12 (9) Workmen's compensation  
13 (10) Common carrier liability  
14 (11) Boiler and machinery  
15 (12) Burglary  
16 (13) Credit  
17 (14) Sprinkler  
18 (15) Team and vehicle  
19 (16) Automobile  
20 (17) Mortgage  
21 (18) Aircraft  
22 (19) Mortgage guaranty  
23 (19.5) Insolvency  
24 (19.6) Legal insurance  
25 (19.7) *Pet insurance*  
26 (20) Miscellaneous  
27 SEC. 2. Section 119.7 is added to the Insurance Code, to read:  
28 119.7. "Pet insurance" has the same meaning as that term is  
29 defined in Section 12880.  
30 SEC. 3. Section 700.01 of the Insurance Code is amended to  
31 read:  
32 700.01. In addition to any or all of the classes of insurance  
33 ~~which~~ *that* it is permitted to transact by all other applicable  
34 provisions of this code, any incorporated insurer admitted or  
35 hereafter admitted for one or more of the classes of insurance stated

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

21 Number and name of class	Amount
	of capital
23 2. Fire .....	\$350,000
24 3. Marine .....	350,000
25 5. Surety .....	350,000
26 6. Disability .....	250,000
27 7. Plate glass .....	100,000
28 8. Liability	
29 9. Workers' compensation	
30 10. Common carrier liability	
31	} ..... 300,000 for
32	any or all of
33	these
33 11. Boiler and machinery .....	100,000
34 12. Burglary .....	100,000
35 13. Credit .....	100,000
36 14. Sprinkler .....	100,000
37 15. Team and vehicle .....	100,000
38 16. Automobile .....	200,000
39 18. Aircraft .....	100,000
40 19. <i>Pet</i> .....	<i>100,000</i>

1 20. Miscellaneous ..... 100,000

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3 This section shall not be applicable to life, title, mortgage, or  
4 mortgage guaranty insurance, and an insurer now or hereafter  
5 admitted to transact life, title, mortgage, or mortgage guaranty  
6 insurance shall not be admitted under the provisions of this section,  
7 but its admission is governed by other applicable provisions of  
8 this code.

9 Insurers admitted for one or more classes of insurance on  
10 December 31, 1989, shall be governed by the provisions of this  
11 section in effect as of December 31, 1989, until December 31,  
12 1999. After December 31, 1999, all insurers governed by this  
13 section shall meet the capital requirements of this section as  
14 become effective January 1, 1990. Insurers admitted for one or  
15 more classes of insurance on December 31, 1989, that thereafter  
16 amend their certificate of authority to add a class or classes of  
17 insurance shall become subject to the capital requirements of this  
18 section.

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

20 739. As used in this article, these terms shall have the following  
21 meanings:

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

25 (b) "Corrective Order" means an order issued by the  
26 commissioner specifying corrective actions that the commissioner  
27 has determined are required.

28 (c) "Domestic insurer" means any life or health insurer or  
29 property and casualty insurer organized in this state.

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

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

37 (f) "NAIC" means the National Association of Insurance  
38 Commissioners.

39 (g) "Negative trend" means, with respect to a life or health  
40 insurer, a negative trend over a period of time, as determined in

1 accordance with the “Trend Test Calculation” included in the RBC  
2 Instructions defined in subdivision (i).

3 (h) “Property and casualty insurer” means any admitted insurer  
4 writing insurance as described in Section 102, 103, 105, 107, 108,  
5 109, 110, 111, 112, 113, 114, 115, 116, 118, 119.5, 119.6, 119.7,  
6 or 120, but does not include monoline mortgage guaranty insurers,  
7 financial guaranty insurers, or title insurers.

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

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

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

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

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

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

24 (k) “RBC Plan” means a comprehensive financial plan  
25 containing the elements specified in subdivision (b) of Section  
26 739.3. If the commissioner rejects the RBC Plan, and it is revised  
27 by the insurer, with or without the commissioner’s  
28 recommendation, the plan shall be called the “Revised RBC Plan.”

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

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

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

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

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

35 1063. (a) Within 60 days after the original effective date of  
36 this article, all insurers, including reciprocal insurers, admitted to  
37 transact insurance in this state of any or all of the following classes  
38 only in accordance with the provisions of Chapter 1 (commencing  
39 with Section 100) of Part 1 of this division: fire (see Section 102),  
40 marine (see Section 103), plate glass (see Section 107), liability

1 (see Section 108), workers' compensation (see Section 109),  
2 common carrier liability (see Section 110), boiler and machinery  
3 (see Section 111), burglary (see Section 112), sprinkler (see Section  
4 114), team and vehicle (see Section 115), automobile (see Section  
5 116), aircraft (see Section 118), *pet* (see Section 119.7), and  
6 miscellaneous (see Section 120), shall establish the California  
7 Insurance Guarantee Association (the association); provided,  
8 however, this article shall not apply to the following classes or  
9 kinds of insurance: life and annuity (see Section 101), title (see  
10 Section 104), fidelity or surety including fidelity or surety bonds,  
11 or any other bonding obligations (see Section 105), disability or  
12 health (see Section 106), credit (see Section 113), mortgage (see  
13 Section 117), mortgage guaranty, insolvency or legal (see Section  
14 119), financial guaranty or other forms of insurance offering  
15 protection against investment risks (see Section 124), the ocean  
16 marine portion of any marine insurance or ocean marine coverage  
17 under any insurance policy including the following: the Jones Act  
18 (46 U.S.C. Sec. 688), the Longshore and Harbor Workers'  
19 Compensation Act (33 U.S.C. Sec. 901 et seq.), or any other similar  
20 federal statutory enactment, or any endorsement or policy affording  
21 protection and indemnity coverage, or reinsurance as defined in  
22 Section 620, or fraternal fire insurance written by associations  
23 organized and operating under Sections 9080 to 9103, inclusive.  
24 Any insurer admitted to transact only those classes or kinds of  
25 insurance excluded from this article shall not be a member insurer  
26 of the association. Each insurer admitted to transact a class of  
27 insurance included in this article, including the State Compensation  
28 Insurance Fund, as a condition of its authority to transact insurance  
29 in this state, shall participate in the association whether established  
30 voluntarily or by order of the commissioner after the elapse of 60  
31 days following the original effective date of this article in  
32 accordance with rules to be established as provided in this article.  
33 It shall be the purpose of the association to provide for each  
34 member insurer insolvency insurance as defined in Section 119.5.

35 (b) The association shall be managed by a board of governors,  
36 composed of nine member insurers, each of which shall be  
37 appointed by the commissioner to serve initially for terms of one,  
38 two, or three years and thereafter for three-year terms so that three  
39 terms shall expire each year on December 31, and shall continue  
40 in office until his or her successor shall be appointed and qualified.

1 At least five members of the board shall be domestic insurers. At  
2 least three of the members shall be stock insurers, and at least three  
3 shall be nonstock insurers. The nine members shall be  
4 representative, as nearly as possible, of the classes of insurance  
5 and of the kinds of insurers covered by this article. In case of a  
6 vacancy for any reason on the board, the commissioner shall  
7 appoint a member insurer to fill the unexpired term. In addition to  
8 the nine member insurers, the membership of the board shall also  
9 include one public member appointed by the President pro Tempore  
10 of the Senate, one public member appointed by the Speaker of the  
11 Assembly, one business member appointed by the commissioner,  
12 and one labor member appointed by the commissioner.

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

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

31 (e) In accordance with its plan of operation, the association may  
32 designate one or more of its members as a servicing facility, but  
33 a member may decline this designation. Each servicing facility  
34 shall be reimbursed by the association for all reasonable expenses  
35 it incurs and for all payments it makes on behalf of the association.  
36 Each servicing facility shall have authority to perform any  
37 functions of the association that the board of governors lawfully  
38 may delegate to it and to do so on behalf of and in the name of the  
39 association. The designation of servicing facilities shall be subject  
40 to the approval of the commissioner.

1 (f) The association shall have authority to borrow funds when  
2 necessary to effectuate the provisions of this article, and may  
3 provide in its plan of operations for any of the following:

4 (1) The issuance of notes, bonds, or debentures, or the  
5 establishment of a special purpose trust or other entity, solely for the  
6 purpose of facilitating a financing.

7 (2) The securing of that borrowing or those notes, bonds, or  
8 debentures by pledging or granting liens or mortgages, or by  
9 otherwise encumbering its real or personal property, including,  
10 but not limited to, premiums levied under Section 1063.5.

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

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

19 (i) (1) The association shall have an annual audit of its financial  
20 condition conducted by an independent certified public accountant.  
21 The audit shall be conducted, to the extent possible, in accordance  
22 with generally accepted auditing standards (GAAS) and the report  
23 of the audit shall be submitted to the commissioner.

24 (2) The association shall annually audit at least one-third of the  
25 service companies retained by the association to adjust claims of  
26 insolvent insurers. The audits shall (A) assure that all covered  
27 claims are being investigated, adjusted, and paid in accordance  
28 with customary industry standards and practices and all applicable  
29 statutes, rules and regulations, and (B) examine the management  
30 and supervisory systems overseeing the claims functions. The  
31 audits shall be conducted by the association or an independent  
32 auditor, provided that the three largest service companies, as  
33 measured by the number of claims processed for the association  
34 during the previous three fiscal years, shall be audited by an  
35 independent auditor at least once every three years. The association  
36 shall implement systems to retain independent auditing firms for  
37 the purpose of this paragraph, provided that no one firm is  
38 designated or utilized as an exclusive provider. Audits conducted  
39 pursuant to this paragraph shall be submitted annually to the  
40 commissioner for review.



1 (j) The commissioner shall examine the association to the same  
2 extent as, and in accordance with, the requirements of Article 4  
3 (commencing with Section 730) of Chapter 1 of Part 2 of Division  
4 2, which sets forth the examination requirements applicable to  
5 admitted insurers. A copy of the examination report shall be filed  
6 with the Chairpersons of the Senate and Assembly Committees  
7 on Insurance no later than December 31 of the year the report is  
8 completed.

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

11  
12 PART 9. PET INSURANCE

13  
14 12880. For purposes of this part, the following definitions shall  
15 apply:

16 (a) "Pet insurance" means an individual or group insurance  
17 policy that provides coverage for veterinary expenses.

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

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

28 (d) "Hereditary disorder" means an abnormality that is  
29 genetically transmitted from parent to offspring and may cause  
30 illness or disease.

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

37 12880.1. A policy of pet insurance that is marketed, issued,  
38 amended, renewed, or delivered to a resident of this state on or  
39 after January 1, 2011, regardless of the situs of the contract or  
40 master group policyholder, shall be subject to this part.

1 12880.2. (a) A pet insurer shall not exclude coverage on the  
2 basis of a preexisting condition provision for a period beyond six  
3 months following the insured's effective date of coverage. A  
4 preexisting condition provision contained in a pet insurance policy  
5 may only relate to conditions for which medical advice, diagnosis,  
6 care, or treatment, including, but not limited to, use of prescription  
7 drugs, was recommended or received from a veterinarian during  
8 the six months immediately preceding the effective date of  
9 coverage.

10 (b) A pet insurer that does not utilize a preexisting condition  
11 provision may impose a waiting or affiliation period not to exceed  
12 30 days before the coverage subject to this part shall become  
13 effective. During the waiting or affiliation period, the insurer is  
14 not required to provide coverage for veterinary expenses and no  
15 premium shall be charged to the policyholder or insured.

16 12880.3. A pet insurer shall do one of the following:

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

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

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

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

34 12880.4. In connection with the offering for sale of a pet  
35 insurance policy, an insurer shall make a reasonable disclosure,  
36 as part of its solicitation and sales materials, of the terms and  
37 conditions relating to any preexisting condition provision,  
38 hereditary disorder provision, waiting or affiliation period  
39 provision, deductible provision, coinsurance provision, coverage  
40 limit provision, and benefit schedule provision contained in the

- 1 policy. The disclosures required by this section shall be in addition
- 2 to any other disclosures required by law.

O