

**ASSEMBLY BILL**

**No. 2064**

---

---

**Introduced by Assembly Member Cooley**

February 20, 2014

---

---

An act to amend Sections 10081, 10085, 10086, 10089.6, and 10089.26 of, to add Sections 10081.1 and 10089.42 to, and to repeal and add Sections 10089.28 and 10089.41 of, the Insurance Code, relating to earthquake insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2064, as introduced, Cooley. Earthquake insurance: mandatory offer.

Existing law prohibits a policy of residential property insurance from being issued or delivered or initially renewed in this state unless the named insured is offered coverage for loss or damage caused by an earthquake, and, if the offer of earthquake coverage is accepted, requires the insurer to provide certain disclosures based on whether the policy was issued by the California Earthquake Authority (CEA).

Existing law created the CEA, to be administered under the authority of the Insurance Commissioner, and authorized it to transact insurance in this state as necessary to sell policies of basic residential earthquake insurance in the manner provided. The CEA has no authority to transact any other type of insurance business. The CEA's operating expenses are capped at 3% of its premium income.

This bill would revise and recast these provisions by instead requiring insurers who are members of the CEA to provide their insureds with specified disclosures with regard to coverage of losses, the CEA's liability limitations, and premiums concurrent with the issuance or renewal by the CEA of a residential earthquake insurance policy. The

bill would also prohibit member insurers from issuing, delivering, or renewing a policy of residential property insurance in this state, unless the named insured is provided notice of the availability of residential earthquake insurance from the CEA within 60 days of issuance or renewal of the insured’s residential insurance policy, as provided. The CEA would be required to prepare the forms of notice for use by member insurers and submit the forms to the commissioner for approval. The insurers would be authorized to provide the notice electronically or by mail. The bill would provide that member insurers that fulfil the specified notice requirements would be in compliance with the earthquake insurance provisions applicable to the issuance, delivery, and renewal of a policy of residential property insurance.

This bill would increase the cap on the CEA’s operating expenses to not more than 5% of its premium income. The bill would also require that a CEA residential earthquake insurance policy be effective upon receipt by the member insurer of both the completed CEA-approved application for the policy, signed by the applicant, and either the annual premium or the first installment of the annual premium.

This bill would also make conforming changes.

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 10081 of the Insurance Code is amended  
 2 to read:  
 3 10081. ~~No~~ *Except as provided in Section 10081.1, a policy of*  
 4 residential property insurance ~~may~~ *shall not* be issued or delivered  
 5 or, with respect to policies in effect on the effective date of this  
 6 chapter, initially renewed in this state by any insurer unless the  
 7 named insured is offered coverage for loss or damage caused by  
 8 the peril of earthquake as provided in this chapter. That coverage  
 9 may be provided in the policy of residential property insurance  
 10 itself, either by specific policy provision or endorsement, or in a  
 11 separate policy or certificate of insurance ~~which~~ *that* specifically  
 12 provides coverage for loss or damage caused by the peril of  
 13 earthquake alone or in combination with other perils.  
 14 SEC. 2. Section 10081.1 is added to the Insurance Code, to  
 15 read:

1 10081.1. Section 10081 does not apply to any insurer that  
2 participates in the California Earthquake Authority pursuant to  
3 Chapter 8.6 (commencing with Section 10089.5). Each insurer  
4 participating in the authority shall provide notice to all of its  
5 residential property insurance policyholders of the availability of  
6 earthquake insurance coverage in the manner required by Section  
7 10089.42.

8 SEC. 3. Section 10085 of the Insurance Code is amended to  
9 read:

10 10085. If the insurer establishes proof of mailing or delivery  
11 of the ~~required~~ offer *that is required pursuant to Section 10081*  
12 and the offer of earthquake coverage is not accepted by the named  
13 insured within 30 days from the date of mailing or delivery of the  
14 offer, there shall be a conclusive presumption that the named  
15 insured elected not to accept the coverage. An election, actual or  
16 presumed, by any named insured shall be binding upon any other  
17 person insured or any other party having an insurable interest in  
18 the insured property.

19 SEC. 4. Section 10086 of the Insurance Code, as amended by  
20 Section 14 of Chapter 369 of the Statutes of 2013, is amended to  
21 read:

22 10086. (a) If an offer of earthquake coverage, *made pursuant*  
23 *to Section 10081*, is accepted, the coverage shall be continued at  
24 the applicable rates and conditions for the policy term, provided  
25 the policy of residential property insurance is not terminated by  
26 the named insured or insurer.

27 (1) At any renewal, an insurer may modify the terms and  
28 conditions of an existing policy, rider, or endorsement providing  
29 coverage against loss or damage caused by the peril of earthquake  
30 if the modified terms and conditions provide the minimum  
31 coverages required by Section 10089.

32 (2) An insurer that modifies the terms and conditions of an  
33 existing policy, rider, or endorsement shall provide the insured  
34 with the renewal notice in a stand-alone disclosure document  
35 stating the changes in the terms and conditions of the insured's  
36 existing policy, rider, or endorsement. The offer of renewal may  
37 be made electronically pursuant to Section 38.5. Proof of mailing  
38 of the disclosure document by first-class mail to a named insured  
39 at the mailing address shown on the policy or application, or proof  
40 consistent with Section 38.5 that the offer of renewal of coverage

1 was sent to the named insured or applicant by electronic  
2 transmission, creates a conclusive presumption that the disclosure  
3 document was provided. The disclosure shall include the following  
4 statement in 14-point boldface type:

5  
6 “THE COVERAGE IN THE POLICY WE ARE OFFERING  
7 YOU WITH THIS RENEWAL HAS BEEN REDUCED, AND  
8 SUBSTANTIALLY DIFFERS FROM THE COVERAGES  
9 PROVIDED BY YOUR HOMEOWNERS’ POLICY.  
10 INSURANCE COMPANIES ARE ALLOWED TO RENEW  
11 EARTHQUAKE INSURANCE POLICIES WITH COVERAGE  
12 THAT IS REDUCED FROM THE COVERAGE YOU  
13 PREVIOUSLY PURCHASED. YOU MAY REQUEST A  
14 SAMPLE COPY OF THIS NEW POLICY TO REVIEW PRIOR  
15 TO MAKING A DECISION TO ACCEPT THIS RENEWAL,  
16 AND WE WILL MAIL OR DELIVER IT TO YOU WITHIN 14  
17 DAYS OF YOUR REQUEST. A REQUEST FOR THE SAMPLE  
18 COPY SHALL NOT CHANGE OR EXTEND THE POLICY  
19 EXPIRATION DATE SPECIFIED IN THE RENEWAL NOTICE.  
20 A SUMMARY OF THE CHANGES IS INCLUDED WITH THIS  
21 NOTICE.”

22  
23 The commissioner shall approve the form of the summary at the  
24 time he or she approves the policy. The summary shall include the  
25 information contained in subdivision (a) of Section 10083, and  
26 may be included with the renewal notice in standard type.

27 The commissioner may approve substantially similar disclosure  
28 forms if necessary to accurately disclose relevant information to  
29 the policyholder. The commissioner may also approve disclosure  
30 forms substantially similar to the disclosure statement required by  
31 Section 10083 if necessary to accurately disclose relevant  
32 information to the policyholder.

33 ~~(3) If the earthquake coverage is provided by a policy issued~~  
34 ~~by the California Earthquake Authority, the following disclosure~~  
35 ~~shall be provided in 14-point boldface type:~~

36  
37  
38 CALIFORNIA EARTHQUAKE AUTHORITY POLICY  
39 DISCLOSURE

40

1 ~~THIS POLICY IS BEING PURCHASED FROM THE~~  
2 ~~CALIFORNIA EARTHQUAKE AUTHORITY (“CEA”). THE~~  
3 ~~COVERAGE IN THIS CEA POLICY SUBSTANTIALLY~~  
4 ~~DIFFERS FROM THE COVERAGES PROVIDED IN YOUR~~  
5 ~~HOMEOWNER’S POLICY. THE CEA IS NOT PART OF OR~~  
6 ~~ASSOCIATED WITH YOUR HOMEOWNER’S INSURANCE~~  
7 ~~COMPANY. IF LOSSES AS A RESULT OF AN EARTHQUAKE~~  
8 ~~OR A SERIES OF EARTHQUAKES EXCEED THE~~  
9 ~~AVAILABLE RESOURCES OF THE CEA, THIS POLICY IS~~  
10 ~~NOT COVERED BY THE CALIFORNIA INSURANCE~~  
11 ~~GUARANTY ASSOCIATION. THEREFORE, THE~~  
12 ~~CALIFORNIA INSURANCE GUARANTY ASSOCIATION~~  
13 ~~WILL NOT PAY YOUR CLAIMS OR PROTECT YOUR~~  
14 ~~ASSETS IF THE CEA BECOMES INSOLVENT AND IS~~  
15 ~~UNABLE TO MAKE PAYMENTS AS PROMISED. IN~~  
16 ~~ADDITION, YOUR CEA POLICY MAY BE SUBJECT TO~~  
17 ~~FUTURE SURCHARGES OF THE POLICY PREMIUM IN~~  
18 ~~CERTAIN CASES WHERE AN EARTHQUAKE OR SERIES~~  
19 ~~OF EARTHQUAKES HAS EXCEEDED AVAILABLE~~  
20 ~~RESOURCES TO PAY CLAIMS. IN THAT CASE, THIS~~  
21 ~~MEANS THAT IN ADDITION TO THE ANNUAL PREMIUM,~~  
22 ~~YOU MAY BE CHARGED UP TO AN ADDITIONAL 20% OF~~  
23 ~~THE PREMIUM.~~

24 (b) If the offer of *earthquake coverage made pursuant to Section*  
25 *10081* is not accepted, the insurer or any affiliated insurer shall be  
26 required on an every other year basis to offer earthquake coverage  
27 in connection with any continuation, renewal, or reinstatement of  
28 the policy following any lapse thereof, or with respect to any other  
29 policy that extends, changes, supersedes, or replaces the policy of  
30 residential property insurance. The offer may be made  
31 electronically pursuant to Section 38.5.

32 (c) Nothing in this section shall preclude the named insured  
33 from terminating the earthquake coverage at any time.

34 (d) This section shall remain in effect only until January 1, 2019,  
35 and as of that date is repealed, unless a later enacted statute, that  
36 is enacted before January 1, 2019, deletes or extends that date.

37 SEC. 5. Section 10086 of the Insurance Code, as added by  
38 Section 15 of Chapter 369 of the Statutes of 2013, is amended to  
39 read:

1 10086. (a) If an offer of earthquake coverage, *made pursuant*  
2 *to Section 10081*, is accepted, the coverage shall be continued at  
3 the applicable rates and conditions for the policy term, provided  
4 the policy of residential property insurance is not terminated by  
5 the named insured or insurer.

6 (1) At any renewal, an insurer may modify the terms and  
7 conditions of an existing policy, rider, or endorsement providing  
8 coverage against loss or damage caused by the peril of earthquake  
9 if the modified terms and conditions provide the minimum  
10 coverages required by Section 10089.

11 (2) An insurer that modifies the terms and conditions of an  
12 existing policy, rider, or endorsement shall provide the insured  
13 with the renewal notice in a stand-alone disclosure document  
14 stating the changes in the terms and conditions of the insured’s  
15 existing policy, rider, or endorsement. Proof of mailing of the  
16 disclosure document by first-class mail to a named insured at the  
17 mailing address shown on the policy or application creates a  
18 conclusive presumption that the disclosure document was provided.  
19 The disclosure shall include the following statement in 14-point  
20 boldface type:

21  
22 “THE COVERAGE IN THE POLICY WE ARE OFFERING  
23 YOU WITH THIS RENEWAL HAS BEEN REDUCED, AND  
24 SUBSTANTIALLY DIFFERS FROM THE COVERAGES  
25 PROVIDED BY YOUR HOMEOWNERS’ POLICY.  
26 INSURANCE COMPANIES ARE ALLOWED TO RENEW  
27 EARTHQUAKE INSURANCE POLICIES WITH COVERAGE  
28 THAT IS REDUCED FROM THE COVERAGE YOU  
29 PREVIOUSLY PURCHASED. YOU MAY REQUEST A  
30 SAMPLE COPY OF THIS NEW POLICY TO REVIEW PRIOR  
31 TO MAKING A DECISION TO ACCEPT THIS RENEWAL,  
32 AND WE WILL MAIL OR DELIVER IT TO YOU WITHIN 14  
33 DAYS OF YOUR REQUEST. A REQUEST FOR THE SAMPLE  
34 COPY SHALL NOT CHANGE OR EXTEND THE POLICY  
35 EXPIRATION DATE SPECIFIED IN THE RENEWAL NOTICE.  
36 A SUMMARY OF THE CHANGES IS INCLUDED WITH THIS  
37 NOTICE.”

38  
39 The commissioner shall approve the form of the summary at the  
40 time he or she approves the policy. The summary shall include the

1 information contained in subdivision (a) of Section 10083, and  
2 may be included with the renewal notice in standard type.

3 The commissioner may approve substantially similar disclosure  
4 forms if necessary to accurately disclose relevant information to  
5 the policyholder. The commissioner may also approve disclosure  
6 forms substantially similar to the disclosure statement required by  
7 Section 10083 if necessary to accurately disclose relevant  
8 information to the policyholder.

9 (3) ~~If the earthquake coverage is provided by a policy issued  
10 by the California Earthquake Authority, the following disclosure  
11 shall be provided in 14-point boldface type:~~

12 ~~CALIFORNIA EARTHQUAKE AUTHORITY POLICY  
13 DISCLOSURE~~

14 ~~THIS POLICY IS BEING PURCHASED FROM THE  
15 CALIFORNIA EARTHQUAKE AUTHORITY (“CEA”). THE  
16 COVERAGE IN THIS CEA POLICY SUBSTANTIALLY  
17 DIFFERS FROM THE COVERAGES PROVIDED IN YOUR  
18 HOMEOWNER’S POLICY. THE CEA IS NOT PART OF OR  
19 ASSOCIATED WITH YOUR HOMEOWNER’S INSURANCE  
20 COMPANY. IF LOSSES AS A RESULT OF AN EARTHQUAKE  
21 OR A SERIES OF EARTHQUAKES EXCEED THE  
22 AVAILABLE RESOURCES OF THE CEA, THIS POLICY IS  
23 NOT COVERED BY THE CALIFORNIA INSURANCE  
24 GUARANTY ASSOCIATION. THEREFORE, THE  
25 CALIFORNIA INSURANCE GUARANTY ASSOCIATION  
26 WILL NOT PAY YOUR CLAIMS OR PROTECT YOUR  
27 ASSETS IF THE CEA BECOMES INSOLVENT AND IS  
28 UNABLE TO MAKE PAYMENTS AS PROMISED. IN  
29 ADDITION, YOUR CEA POLICY MAY BE SUBJECT TO  
30 FUTURE SURCHARGES OF THE POLICY PREMIUM IN  
31 CERTAIN CASES WHERE AN EARTHQUAKE OR SERIES  
32 OF EARTHQUAKES HAS EXCEEDED AVAILABLE  
33 RESOURCES TO PAY CLAIMS. IN THAT CASE, THIS  
34 MEANS THAT IN ADDITION TO THE ANNUAL PREMIUM,  
35 YOU MAY BE CHARGED UP TO AN ADDITIONAL 20% OF  
36 THE PREMIUM.~~

37 (b) If the offer of *earthquake coverage made pursuant to Section*  
38 *10081* is not accepted, the insurer or any affiliated insurer shall be  
39 required on an every other year basis to offer earthquake coverage  
40 in connection with any continuation, renewal, or reinstatement of

1 the policy following any lapse thereof, or with respect to any other  
2 policy that extends, changes, supersedes, or replaces the policy of  
3 residential property insurance.

4 (c) Nothing in this section shall preclude the named insured  
5 from terminating the earthquake coverage at any time.

6 (d) This section shall become operative on January 1, 2019.

7 SEC. 6. Section 10089.6 of the Insurance Code is amended to  
8 read:

9 10089.6. (a) There is hereby created the California Earthquake  
10 Authority, which shall be administered under the authority of the  
11 commissioner and have the powers conferred by this chapter. The  
12 authority shall be authorized to transact insurance in this state as  
13 necessary to sell policies of basic residential earthquake insurance  
14 in the manner set forth in Sections 10089.26, 10089.27, and  
15 10089.28. The authority shall have no authority to transact any  
16 other type of insurance business.

17 (b) (1) The investments of the authority shall be limited to those  
18 securities eligible under Section 16430 of the Government Code.

19 (2) The rights, obligations, and duties owed by the authority to  
20 its insureds, beneficiaries of insureds, and applicants for insurance  
21 shall be the same as the rights, obligations, and duties owed by  
22 insurers to its insureds, beneficiaries of insureds and applicants  
23 for insurance under common law, regulations, and statutes. The  
24 authority shall be liable to its insureds, beneficiaries of insureds,  
25 and applicants for insurance as an insurer is liable to its insureds,  
26 beneficiaries of insureds, and applicants for insurance under  
27 common law, regulations, and statutes.

28 (c) The operating expenses of the authority shall be capped at  
29 not more than ~~3 percent~~ *5 percent* of the premium income received  
30 by the authority. The funds shall be available to pay any advocacy  
31 fees awarded in a proceeding under subdivision (c) of Section  
32 10089.11.

33 SEC. 7. Section 10089.26 of the Insurance Code is amended  
34 to read:

35 10089.26. (a) (1) The authority shall issue policies of basic  
36 residential earthquake insurance, including earthquake loss  
37 assessment policies for individual condominium unit properties,  
38 to any owner of a qualifying residential property, as long as the  
39 owner has secured a policy of residential property insurance from  
40 a participating insurer.

1 (2) A policy of residential earthquake insurance written by the  
2 authority shall be effective upon receipt by the participating insurer  
3 of both of the following:

4 (A) The completed authority-approved application for the policy,  
5 signed by the applicant.

6 (B) Either the annual premium or the first installment of the  
7 annual premium.

8 ~~(1)~~

9 (b) For purposes of this section, earthquake loss assessment  
10 coverage shall be issued in a minimum amount of fifty thousand  
11 dollars (\$50,000) for individual condominium units valued at more  
12 than one hundred thirty-five thousand dollars (\$135,000).  
13 Earthquake loss assessment coverage shall be issued in a minimum  
14 amount of twenty-five thousand dollars (\$25,000) for individual  
15 condominium units of one hundred thirty-five thousand dollars  
16 (\$135,000) in value or less. The value of the land shall be excluded  
17 when determining the value of the condominium, as it relates to  
18 the earthquake loss assessment coverage offered by the authority.

19 ~~(2)~~

20 (c) The panel shall submit to the board, and the board shall  
21 approve, rates for earthquake loss assessment coverage that  
22 reasonably balance the earthquake loss assessment coverages  
23 offered and the potential exposure to earthquake loss resulting  
24 from an earthquake loss assessment policy as compared to the  
25 coverages offered and the potential exposure to earthquake loss  
26 resulting from residential property other than individual  
27 condominium policies.

28 ~~(1)~~

29 (d) It is the intent of the Legislature, to the extent practicable,  
30 that rates charged by the authority to condominium loss assessment  
31 policyholders and residential property owner policyholders are  
32 treated equitably, and that a proportionate share of premiums is  
33 paid for potential exposure to loss, to the authority.

34 ~~(b)~~

35 (e) Nothing in this section shall prohibit a participating or  
36 nonparticipating insurer from offering a condominium earthquake  
37 loss assessment policy for different amounts of coverage other  
38 than those offered by the authority.

39 SEC. 8. Section 10089.28 of the Insurance Code is repealed.

1     ~~10089.28. (a) All policies of residential earthquake insurance~~  
2 ~~provided by the authority shall be written by the authority.~~  
3 ~~Authority policies shall be marketed and policyholders serviced~~  
4 ~~by the participating insurer that writes the underlying policy of~~  
5 ~~residential property insurance, and participating insurers shall be~~  
6 ~~reasonably compensated for the claims and policyholder services~~  
7 ~~they provide on behalf of the authority. Authority services may be~~  
8 ~~performed on behalf of the authority in any reasonable manner by~~  
9 ~~the participating insurer that is in compliance with statutory,~~  
10 ~~regulatory, and case laws regarding claims handling practices;~~  
11 ~~provided, however, where the authority has promulgated specific~~  
12 ~~procedures to govern its operations, the participating insurer shall~~  
13 ~~conform its practices to those procedures. The authority procedures~~  
14 ~~shall comply with statutory, regulatory, and case law governing~~  
15 ~~claims handling practices. Nothing in this provision shall be~~  
16 ~~deemed or construed to affect any duty or liability of the authority~~  
17 ~~or participating carrier as set forth in paragraphs (2) and (3) of~~  
18 ~~subdivision (e) of Section 10089.7.~~

19     ~~(b) The participating insurer shall notify each of its insureds~~  
20 ~~that the authority is the provider of earthquake coverage under the~~  
21 ~~policy. The form and method of notice shall meet standards~~  
22 ~~established by the commissioner by regulation. The authority shall~~  
23 ~~provide to participating insurers appropriate applications and forms~~  
24 ~~and shall maintain records of all policies written, moneys received,~~  
25 ~~and claims paid.~~

26     ~~(c) The duty of an agent or broker to investigate the financial~~  
27 ~~condition of the authority before placement of insurance shall be~~  
28 ~~the same as the duty of an agent or broker to investigate the~~  
29 ~~financial condition of an admitted insurer before placement of a~~  
30 ~~policy of insurance.~~

31     SEC. 9. Section 10089.28 is added to the Insurance Code, to  
32 read:

33     10089.28. (a) All policies of residential earthquake insurance  
34 provided by the authority shall be written by the authority.  
35 Authority policies shall be marketed and policyholders serviced  
36 by the participating insurer that writes the underlying policy of  
37 residential property insurance, and participating insurers shall be  
38 reasonably compensated for the claims and policyholder services  
39 they provide on behalf of the authority. Authority services may be  
40 performed on behalf of the authority in any reasonable manner by

1 the participating insurer that is in compliance with statutory,  
2 regulatory, and case laws regarding claims handling practices;  
3 provided, however, where the authority has promulgated specific  
4 procedures to govern its operations, the participating insurer shall  
5 conform its practices to those procedures. The authority procedures  
6 shall comply with statutory, regulatory, and case law governing  
7 claims handling practices. Nothing in this provision shall be  
8 deemed or construed to affect any duty or liability of the authority  
9 or participating carrier as set forth in paragraphs (2) and (3) of  
10 subdivision (e) of Section 10089.7.

11 (b) Concurrent with the issuance or renewal by the authority of  
12 a residential earthquake insurance policy, the participating insurer  
13 shall provide the following disclosure to the insured in 14-point  
14 boldface type:

15

16 “California Earthquake Authority Policy Disclosure

17 You have purchased a California Earthquake Authority (CEA)  
18 earthquake insurance policy, which can help you cover the cost of  
19 repairing damage to your property and possessions caused by an  
20 earthquake.

21 The CEA is not part of your homeowners’ insurance company.

22 Please keep in mind these important things about your CEA  
23 insurance policy:

24 1. CEA policy coverages are different from the coverages  
25 provided in your homeowners insurance policy. For example, this  
26 policy does not cover earthquake damage to swimming pools, and  
27 it may provide more limited coverage for chimneys, outbuildings,  
28 and masonry fences. These are examples of possible differences  
29 between your CEA policy and your homeowners’ policy, and you  
30 should consult your CEA policy to understand the types of losses  
31 that are limited or excluded and those that are covered.

32 2. If CEA’s liability for earthquake losses exceeds the CEA’s  
33 available resources the CEA may reduce its payment to you or pay  
34 you in installments. This policy is not covered by the California  
35 Insurance Guarantee Association and therefore the California  
36 Insurance Guarantee Association will not pay your claims if the  
37 CEA becomes insolvent and is unable to make payments as  
38 promised.

39 3. In certain cases, your CEA policy premium may be subject  
40 to future surcharges if the CEA’s obligations to pay earthquake

1 losses rise to a pre-defined level. In that case, in addition to your  
2 annual premium you may be charged up to an additional 20% of  
3 that premium.”

4  
5 (c) The authority shall provide to participating insurers  
6 appropriate applications and forms and shall maintain records of  
7 all policies written, moneys received, and claims paid.

8 (d) The duty of an agent or broker to investigate the financial  
9 condition of the authority before placement of insurance shall be  
10 the same as the duty of an agent or broker to investigate the  
11 financial condition of an admitted insurer before placement of a  
12 policy of insurance.

13 SEC. 10. Section 10089.41 of the Insurance Code is repealed.  
14 ~~10089.41. (a) The offer of an authority policy by a participating~~  
15 ~~insurer shall constitute a mode of insurer compliance with Chapter~~  
16 ~~8.5 (commencing with Section 10081) of Part 1 of Division 2, and~~  
17 ~~as set forth in Section 10084.~~

18 ~~(b) If the authority ceases operation for any reason, including,~~  
19 ~~but not limited to, repeal of this chapter or insolvency of the~~  
20 ~~authority, participating carriers shall no longer be able to satisfy~~  
21 ~~the requirement to offer residential earthquake insurance coverage~~  
22 ~~by placement within the authority. The commissioner shall adopt~~  
23 ~~a schedule in accordance with subdivision (a) of Section 10089.35~~  
24 ~~to establish when participating carriers shall be required to offer~~  
25 ~~coverage by another mode authorized pursuant to Chapter 8.5~~  
26 ~~(commencing with Section 10081) of Part 1 of Division 2 to those~~  
27 ~~policyholders for whom they write the underlying policies of~~  
28 ~~residential property insurance.~~

29 ~~(c) If the authority ceases operation pursuant to a statute enacted~~  
30 ~~by the Legislature, that statute shall determine the duty of~~  
31 ~~participating insurers to provide earthquake insurance pursuant to~~  
32 ~~Chapter 8.5 (commencing with Section 10081). Chapter 8.5~~  
33 ~~(commencing with Section 10081) shall remain in effect unless~~  
34 ~~specifically repealed by that statute.~~

35 SEC. 11. Section 10089.41 is added to the Insurance Code, to  
36 read:

37 10089.41. (a) Compliance with the provisions of Section  
38 10089.42 by a participating insurer shall also constitute compliance  
39 by that participating insurer with Chapter 8.5 (commencing with  
40 Section 10081).

1 (b) If the authority ceases operation for any reason, including,  
2 but not limited to, the repeal of this chapter or insolvency of the  
3 authority, participating carriers shall be required to offer residential  
4 earthquake insurance coverage pursuant to Section 10081. The  
5 commissioner shall adopt a schedule in accordance with  
6 subdivision (a) of Section 10089.35 to establish when participating  
7 carriers shall be required to offer coverage pursuant to Section  
8 10081 to those policyholders for whom they write the underlying  
9 policies of residential property insurance.

10 (c) If the authority ceases operation pursuant to a statute enacted  
11 by the Legislature, that statute shall determine the duty of  
12 participating insurers to provide earthquake insurance pursuant to  
13 Chapter 8.5 (commencing with Section 10081). Chapter 8.5  
14 (commencing with Section 10081) shall remain in effect unless  
15 specifically repealed by that statute.

16 SEC. 12. Section 10089.42 is added to the Insurance Code, to  
17 read:

18 10089.42. (a) A policy of residential property insurance shall  
19 not be issued, delivered, or renewed in this state, by any  
20 participating insurer unless the named insured is provided notice  
21 of the availability of residential earthquake insurance from the  
22 authority within 60 days of issuance or renewal of the insured's  
23 residential insurance policy. The notice required by this subdivision  
24 shall do all of the following:

25 (1) Notify the insured that the residential property insurance  
26 policy does not provide coverage for loss or damage caused by  
27 the peril of earthquake.

28 (2) Disclose that the insured can apply at any time through the  
29 participating insurer for insurance issued by the authority that  
30 covers loss or damage caused by the peril of earthquake.

31 (3) Notify the insured that a policy of residential earthquake  
32 insurance from the authority provides different protection, and in  
33 some cases less protection, than the residential property insurance  
34 policy.

35 (4) Inform the insured of the amounts of premium and deductible  
36 applicable to base-limits authority earthquake insurance coverage.

37 (5) Direct the insured to an Internet Web site maintained by the  
38 participating insurer or by the authority, or jointly by both, where  
39 the insured can obtain premium estimates and information on  
40 additional earthquake insurance coverages, coverage limits,

1 deductibles, and other policy and coverage features for a residential  
2 earthquake insurance policy from the authority.

3 (6) Direct the insured to an Internet Web site or toll-free  
4 telephone number, or both, where the insured can be referred to  
5 or speak with a representative or broker-agent of the participating  
6 insurer who can facilitate the preparation and receipt of an  
7 application for residential earthquake insurance written by the  
8 authority.

9 (b) The participating insurer may, but shall not be required to,  
10 provide notice under this section to any insured who has purchased  
11 through that participating insurer, and has in force, a residential  
12 earthquake insurance policy written by the authority.

13 (c) The authority shall prepare forms of notice for use by  
14 participating insurers and submit them to the commissioner for  
15 approval. The commissioner shall approve a form of notice if it  
16 accurately discloses the information required by subdivision (a).  
17 Forms of notice are not required to be reproduced in identical form  
18 to the disclosures and advice set forth in subdivision (a), and they  
19 may contain provisions additional to those set forth in subdivision  
20 (a) if the additional provisions do not conflict with this section.

21 (d) (1) The notice required by this section may be made  
22 electronically pursuant to Section 38.5.

23 (2) Proof of mailing of any notice required by this section by  
24 first-class mail to a named insured at the mailing address shown  
25 on the policy or application, or proof consistent with Section 38.5  
26 that the notice was sent to the named insured or applicant by  
27 electronic transmission, creates a conclusive presumption that the  
28 notice required by this section was provided.