

ASSEMBLY BILL

No. 2735

Introduced by Committee on Insurance (Assembly Members Perea (Chair), Bradford, Ian Calderon, Cooley, Dababneh, Frazier, Gonzalez, V. Manuel Pérez, and Wieckowski)

February 25, 2014

An act to amend Section 10086 of the Insurance Code, relating to earthquake insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2735, as introduced, Committee on Insurance. Earthquake insurance.

Existing law prohibits a policy of residential property insurance from being issued or delivered unless the named insured is offered coverage for loss or damage caused by an earthquake, and specifies the minimum coverage that is required to be offered. If an offer of earthquake coverage is not accepted, insurers are required to subsequently offer earthquake coverage to residential policyholders on an every other year basis.

This bill would exempt those insurers whose insureds have accepted earthquake coverage that does not meet the minimum coverage requirement but has been approved by the Insurance Commissioner from being required to offer earthquake coverage meeting the minimum coverage requirements at any renewal if the insurer has offered a renewal of that policy and has provided written notice with that renewal regarding additional earthquake coverage available.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

1 SECTION 1. Section 10086 of the Insurance Code, as amended
2 by Section 14 of Chapter 369 of the Statutes of 2013, is amended
3 to read:

4 10086. (a) If an offer of earthquake coverage is accepted, the
5 coverage shall be continued at the applicable rates and conditions
6 for the policy term, provided the policy of residential property
7 insurance is not terminated by the named insured or insurer.

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

13 (2) An insurer that modifies the terms and conditions of an
14 existing policy, rider, or endorsement shall provide the insured
15 with the renewal notice in a stand-alone disclosure document
16 stating the changes in the terms and conditions of the insured's
17 existing policy, rider, or endorsement. The offer of renewal may
18 be made electronically pursuant to Section 38.5. Proof of mailing
19 of the disclosure document by first-class mail to a named insured
20 at the mailing address shown on the policy or application, or proof
21 consistent with Section 38.5 that the offer of renewal of coverage
22 was sent to the named insured or applicant by electronic
23 transmission, creates a conclusive presumption that the disclosure
24 document was provided. The disclosure shall include the following
25 statement in 14-point boldface type:

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

1 EXPIRATION DATE SPECIFIED IN THE RENEWAL NOTICE.
2 A SUMMARY OF THE CHANGES IS INCLUDED WITH THIS
3 NOTICE.

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

8 The commissioner may approve substantially similar disclosure
9 forms if necessary to accurately disclose relevant information to
10 the policyholder. The commissioner may also approve disclosure
11 forms substantially similar to the disclosure statement required by
12 Section 10083 if necessary to accurately disclose relevant
13 information to the policyholder.

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

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CALIFORNIA EARTHQUAKE AUTHORITY POLICY
DISCLOSURE

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

1 MEANS THAT IN ADDITION TO THE ANNUAL PREMIUM,
2 YOU MAY BE CHARGED UP TO AN ADDITIONAL 20% OF
3 THE PREMIUM.

4 (b) (1) *If the insurer offers policies providing earthquake*
5 *coverage, other than the coverage specified in subdivisions (a)*
6 *and (b) of Section 10089, pursuant to a rate application approved*
7 *by the commissioner in accordance with subdivision (c) of Section*
8 *10089, and an offer of that policy has been accepted, no further*
9 *or other offer of earthquake coverage meeting the minimum*
10 *coverage requirements is required at any renewal if the insurer*
11 *has done both of the following:*

12 (A) *Offered a renewal of that policy.*
13 (B) *Has provided written notice with that renewal regarding*
14 *additional earthquake coverage available.*

15 (2) *The form of the written notice shall be filed with the*
16 *commissioner at least 30 days prior to its first use and shall not*
17 *be used if the commissioner disapproves the form of the written*
18 *notice as being misleading or incomplete within that period.*

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

27 ~~(e)~~
28 (d) *Nothing in this section shall preclude the named insured*
29 *from terminating the earthquake coverage at any time.*

30 ~~(d)~~
31 (e) *This section shall remain in effect only until January 1, 2019,*
32 *and as of that date is repealed, unless a later enacted statute, that*
33 *is enacted before January 1, 2019, deletes or extends that date.*

34 SEC. 2. Section 10086 of the Insurance Code, as added by
35 Section 15 of Chapter 369 of the Statutes of 2013, is amended to
36 read:

37 10086. (a) *If an offer of earthquake coverage is accepted, the*
38 *coverage shall be continued at the applicable rates and conditions*
39 *for the policy term, provided the policy of residential property*
40 *insurance is not terminated by the named insured or insurer.*

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

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

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

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

36 The commissioner may approve substantially similar disclosure
37 forms if necessary to accurately disclose relevant information to
38 the policyholder. The commissioner may also approve disclosure
39 forms substantially similar to the disclosure statement required by

1 Section 10083 if necessary to accurately disclose relevant
2 information to the policyholder.

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

6 CALIFORNIA EARTHQUAKE AUTHORITY POLICY
7 DISCLOSURE

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

31 *(b) (1) If the insurer offers policies providing earthquake
32 coverage, other than the coverage specified in subdivisions (a)
33 and (b) of Section 10089, pursuant to a rate application approved
34 by the commissioner in accordance with subdivision (c) of Section
35 10089, and an offer of that policy has been accepted, no further
36 or other offer of earthquake coverage meeting the minimum
37 coverage requirements is required at any renewal if the insurer
38 has done both of the following:*

39 *(A) Offered a renewal of that policy.*

1 (B) Has provided written notice with that renewal regarding
2 additional earthquake coverage available.

3 (2) The form of the written notice shall be filed with the
4 commissioner at least 30 days prior to its first use and shall not
5 be used if the commissioner disapproves the form of the written
6 notice as being misleading or incomplete within that period.

7 ~~(b)~~

8 (c) If the offer is not accepted, the insurer or any affiliated
9 insurer shall be required on an every other year basis to offer
10 earthquake coverage in connection with any continuation, renewal,
11 or reinstatement of the policy following any lapse thereof, or with
12 respect to any other policy that extends, changes, supersedes, or
13 replaces the policy of residential property insurance.

14 ~~(e)~~

15 (d) Nothing in this section shall preclude the named insured
16 from terminating the earthquake coverage at any time.

17 ~~(d)~~

18 (e) This section shall become operative on January 1, 2019.