

**ASSEMBLY BILL**

**No. 447**

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**Introduced by Assembly Member Maienschein**

February 23, 2015

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An act to amend Sections 679.71, 679.72, and 679.73 of, and to add Section 679.74 to the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 447, as introduced, Maienschein. Property insurance: discrimination.

Existing law prohibits an admitted insurer licensed to issue policies of residential property insurance from failing or refusing to accept an application for, or issuing a policy to an applicant for, that insurance, except as specified, or from canceling the insurance, under conditions less favorable to the insured than in other comparable cases, except for reasons applicable alike to persons of every sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, or sexual orientation. Existing law provides that sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, or sexual orientation shall not, of itself, constitute a condition or risk for which a higher rate, premium, or charge may be required of the insured.

Existing law also prohibits an application for one of these policies, or an insurance investigation report, from carrying any identification, or any requirement therefor, of the applicant's sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, or sexual orientation.

This bill would add certain other classifications and facts relating to the insured or the insured property to the categories that may not be used by an insurer for the purposes described above.

This bill would also prohibit insurers issuing policies of commercial insurance for multifamily housing developments intended for low and moderate income families or agricultural employees and their families, as specified, from using a prohibited underwriting classification, as defined, to fail or refuse an application or issue a policy to an applicant, to cancel or fail to renew a policy, to charge a higher rate, premium, or charge, or to impose different requirements, as specified.

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 679.71 of the Insurance Code is amended  
 2 to read:  
 3 679.71. No admitted ~~insurer that is~~ *insurer*, licensed to issue  
 4 any policy of insurance covered by this ~~chapter~~ *chapter*, shall fail  
 5 or refuse to accept an application for, or to issue a policy to an  
 6 applicant for, that insurance (unless the insurance is to be issued  
 7 to the applicant by another insurer under the same management  
 8 and control), or cancel that insurance, under conditions less  
 9 favorable to the insured than in other comparable cases, except for  
 10 reasons applicable alike to persons of every ~~characteristic listed~~  
 11 ~~or defined in subdivision (b) or (c) of Section 51 of the Civil Code;~~  
 12 ~~nor shall any of those characteristics, of itself, constitute a condition~~  
 13 ~~or risk for which a higher rate, premium, or charge may be required~~  
 14 ~~of the insured for that insurance: marital status, sex, race, color,~~  
 15 ~~religion, national origin, sexual orientation, creed, disability,~~  
 16 ~~familial status, medical condition, ancestry, or any other~~  
 17 ~~characteristic listed in Section 51.5 of the Civil Code or Section~~  
 18 ~~12920 of the Government Code; nor shall marital status, sex, race,~~  
 19 ~~color, religion, national origin, or ancestry, or any other~~  
 20 ~~characteristic listed in Section 51.5 of the Civil Code or Section~~  
 21 ~~12920 of the Government Code, of itself, constitute a condition or~~  
 22 ~~risk for which a higher rate, premium, or charge may be required~~  
 23 ~~of the insured for that insurance.~~  
 24 SEC. 2. Section 679.72 of the Insurance Code is amended to  
 25 read:

1 679.72. ~~No~~*An* application for insurance specified in this  
2 chapter or insurance investigation report furnished by an insurer  
3 to its agents or employees for use in determining the insurability  
4 of an applicant shall *not* carry any identification, or any  
5 requirement therefor, of ~~any characteristic listed or defined in~~  
6 ~~subdivision (b) or (c) of Section 51 of the Civil Code with respect~~  
7 ~~to the applicant.~~ *the applicant's sex, race, color, religion, national*  
8 *origin, sexual orientation, creed, disability, familial status, medical*  
9 *condition, ancestry, or any other characteristic listed in Section*  
10 *51.5 of the Civil Code or Section 12920 of the Government Code.*

11 SEC. 3. Section 679.73 of the Insurance Code is amended to  
12 read:

13 679.73. ~~Nothing in this~~*This* chapter shall *not* prohibit *the* use  
14 in an application for insurance specified in this chapter of a  
15 question asking for the birthplace of an applicant if ~~such~~ *that*  
16 question is used only to identify the applicant and not to  
17 discriminate against the applicant.

18 SEC. 4. Section 679.74 is added to the Insurance Code, to read:

19 679.74. (a) This section shall apply to any policy of  
20 commercial insurance for multifamily housing developments  
21 intended for occupancy by persons and families of low and  
22 moderate income, as defined in Sections 50073, 50073.5, and  
23 50093 of the Health and Safety Code, or agricultural employees,  
24 as defined in subdivision (b) of Section 1140.4 of the Labor Code,  
25 and their families that covers risks arising from the ownership,  
26 construction, habitation, or other use of real property designed for  
27 human habitation on either a temporary or permanent basis,  
28 including any liability for loss of, damage to, or injury to, persons  
29 or property that occurs on that real property.

30 (b) For the purposes of this section, "prohibited underwriting  
31 classification" means any of the following:

32 (1) All the protected classes in Section 679.71.

33 (2) The income level or source of income, including, but not  
34 limited to, federal vouchers issued under Section 8 of the United  
35 States Housing Act of 1937 (42 U.S.C. Sec. 1437f), of an individual  
36 or group of individuals residing or to reside upon property insured  
37 or to be insured by, a policy of insurance covered by this section.

38 (3) The intended residency upon the property insured or to be  
39 insured by persons who require or will benefit from supportive  
40 services that may be provided on site.

1 (4) The fact that the construction or operation of the real  
2 property, or any portion thereof, is subsidized, financed, insured,  
3 or otherwise assisted by the federal or state government, or by a  
4 local public entity, as defined in Section 50079 of the Health and  
5 Safety Code.

6 (5) The fact that an applicant or insured is organized under the  
7 Nonprofit Corporation Law (Division 2 (commencing with Section  
8 5000) of the Corporations Code). The amount of rent charged to  
9 an individual or group of individuals residing or who will reside  
10 upon property insured or to be insured by a policy of insurance  
11 covered by this section.

12 (6) The amount of rent charged to an individual or group of  
13 individuals residing, or who will reside, upon property insured, or  
14 to be insured, by a policy of insurance covered by this section.

15 (c) An insurer meeting the criteria of subdivision (a) shall not  
16 use a prohibited underwriting classification to do any of the  
17 following:

18 (1) Fail or refuse to accept an application or issue a policy to  
19 an applicant for, or otherwise make unavailable, any insurance  
20 covered by this chapter, unless the insurance is to be issued to the  
21 applicant by another insurer under the same management and  
22 control.

23 (2) Cancel or fail to renew any insurance covered by this section.

24 (3) Impose a rate, premium, or charge that is higher than that  
25 imposed with respect to other applicants, insureds, or insured  
26 properties.

27 (4) Impose different requirements on an applicant for insurance  
28 covered by this chapter than it imposes on other applicants, except  
29 as provided in subdivision (d).

30 (d) This section shall not be construed to prohibit any admitted  
31 insurer licensed to issue any policy of insurance covered by this  
32 chapter from extending preferential treatment to real property  
33 designed for human habitation that is assisted by the federal or  
34 state government, or by a local public entity, as defined in Section  
35 50079 of the Health and Safety Code, or other real property  
36 intended for occupancy by persons and families of low and  
37 moderate income, as defined in Section 50093 of the Health and

- 1 Safety Code, or agricultural employees, as defined in subdivision
- 2 (b) of Section 1140.4 of the Labor Code, and their families.

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