

AMENDED IN ASSEMBLY APRIL 29, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**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~~ of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 447, as amended, 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~~. *above, including, under certain circumstances, the method of financing and source of income.*

~~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~~(a) An admitted insurer, licensed to issue any policy  
4 of insurance covered by this chapter, shall *not* fail or refuse to  
5 accept an application for, or to issue a policy to an applicant for,  
6 that insurance (unless the insurance is to be issued to the applicant  
7 by another insurer under the same management and control), or  
8 cancel that insurance, under conditions less favorable to the insured  
9 than in other comparable cases, except for reasons applicable alike  
10 to persons of every marital status, sex, race, color, religion, national  
11 origin, sexual orientation, creed, disability, familial status, medical  
12 condition, ancestry, or any other characteristic listed in Section  
13 51.5 of the Civil Code or Section 12920 of the Government Code;  
14 *characteristic listed or defined in subdivision (b) or (e) of Section*  
15 *51 of the Civil Code; nor shall marital status, sex, race, color,*  
16 *religion, national origin, or ancestry, or any other characteristic*  
17 *listed in Section 51.5 of the Civil Code or Section 12920 of the*  
18 *Government Code, any of those characteristics, of itself,*  
19 *themselves,* constitute a condition or risk for which a higher rate,  
20 premium, or charge may be required of the insured for that  
21 insurance.

1 (b) *In the limited case of a policy of insurance for real property*  
2 *designed for human habitation, the following shall also be*  
3 *considered characteristics for the purposes of subdivision (a):*

4 (1) *The method of financing for the property insured or to be*  
5 *insured.*

6 (2) *The level or source of income of an individual or group of*  
7 *individuals residing or intending to reside upon the property*  
8 *insured or to be insured.*

9 (3) *The receipt of assistance, intended for housing, from the*  
10 *federal or state government, or from a local public entity, as*  
11 *defined in Section 50079 of the Health and Safety Code, including,*  
12 *but not limited to, federal vouchers issued under Section 8 of the*  
13 *United States Housing Act of 1937 (42 U.S.C. Sec. 1437f), by an*  
14 *individual or group of individuals residing or intending to reside*  
15 *upon the property insured or to be insured.*

16 SEC. 2. Section 679.72 of the Insurance Code is amended to  
17 read:

18 679.72. (a) An application for insurance specified in this  
19 chapter or insurance investigation report furnished by an insurer  
20 to its agents or employees for use in determining the insurability  
21 of an applicant shall not carry any identification, or any  
22 requirement therefor, of the applicant's sex, race, color, religion,  
23 national origin, sexual orientation, creed, disability, familial status,  
24 medical condition, ancestry, or any other characteristic listed in  
25 Section 51.5 of the Civil Code or Section 12920 of the Government  
26 Code. any characteristic listed or defined in subdivision (b) or (e)  
27 of Section 51 of the Civil Code with respect to the applicant.

28 (b) *In the limited case of a policy of insurance for real property*  
29 *designed for human habitation, the following shall also be*  
30 *considered characteristics for the purposes of subdivision (a):*

31 (1) *The method of financing for the property insured or to be*  
32 *insured.*

33 (2) *The level or source of income of an individual or group of*  
34 *individuals residing or intending to reside upon the property*  
35 *insured or to be insured.*

36 (3) *The receipt of assistance, intended for housing, from the*  
37 *federal or state government, or from a local public entity, as*  
38 *defined in Section 50079 of the Health and Safety Code, including,*  
39 *but not limited to, federal vouchers issued under Section 8 of the*  
40 *United States Housing Act of 1937 (42 U.S.C. Sec. 1437f), by an*

1 *individual or group of individuals residing or intending to reside*  
2 *upon the property insured or intending to be insured.*

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

5 679.73. This chapter shall not prohibit the use in an application  
6 for insurance specified in this chapter of a question asking for the  
7 birthplace of an applicant if that question is used only to identify  
8 the applicant and not to discriminate against the applicant.

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

10 ~~679.74. (a) This section shall apply to any policy of~~  
11 ~~commercial insurance for multifamily housing developments~~  
12 ~~intended for occupancy by persons and families of low and~~  
13 ~~moderate income, as defined in Sections 50073, 50073.5, and~~  
14 ~~50093 of the Health and Safety Code, or agricultural employees,~~  
15 ~~as defined in subdivision (b) of Section 1140.4 of the Labor Code,~~  
16 ~~and their families that covers risks arising from the ownership,~~  
17 ~~construction, habitation, or other use of real property designed for~~  
18 ~~human habitation on either a temporary or permanent basis,~~  
19 ~~including any liability for loss of, damage to, or injury to, persons~~  
20 ~~or property that occurs on that real property.~~

21 ~~(b) For the purposes of this section, “prohibited underwriting~~  
22 ~~classification” means any of the following:~~

23 ~~(1) All the protected classes in Section 679.71.~~

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

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

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

37 ~~(5) The fact that an applicant or insured is organized under the~~  
38 ~~Nonprofit Corporation Law (Division 2 (commencing with Section~~  
39 ~~5000) of the Corporations Code). The amount of rent charged to~~  
40 ~~an individual or group of individuals residing or who will reside~~

1 upon property insured or to be insured by a policy of insurance  
2 covered by this section.

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

6 ~~(e) An insurer meeting the criteria of subdivision (a) shall not~~  
7 ~~use a prohibited underwriting classification to do any of the~~  
8 ~~following:~~

9 ~~(1) Fail or refuse to accept an application or issue a policy to~~  
10 ~~an applicant for, or otherwise make unavailable, any insurance~~  
11 ~~covered by this chapter, unless the insurance is to be issued to the~~  
12 ~~applicant by another insurer under the same management and~~  
13 ~~control.~~

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

15 ~~(3) Impose a rate, premium, or charge that is higher than that~~  
16 ~~imposed with respect to other applicants, insureds, or insured~~  
17 ~~properties.~~

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

21 ~~(d) This section shall not be construed to prohibit any admitted~~  
22 ~~insurer licensed to issue any policy of insurance covered by this~~  
23 ~~chapter from extending preferential treatment to real property~~  
24 ~~designed for human habitation that is assisted by the federal or~~  
25 ~~state government, or by a local public entity, as defined in Section~~  
26 ~~50079 of the Health and Safety Code, or other real property~~  
27 ~~intended for occupancy by persons and families of low and~~  
28 ~~moderate income, as defined in Section 50093 of the Health and~~  
29 ~~Safety Code, or agricultural employees, as defined in subdivision~~  
30 ~~(b) of Section 1140.4 of the Labor Code, and their families.~~