

AMENDED IN SENATE JUNE 10, 2015

AMENDED IN ASSEMBLY APRIL 28, 2015

AMENDED IN ASSEMBLY APRIL 13, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1072**

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**Introduced by Assembly Member Daly**

February 27, 2015

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An act to add and repeal Section 11401.5 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1072, as amended, Daly. Insurance: firefighters' or police officers' benefit and relief associations.

Existing law generally provides for the regulation of insurers by the Department of Insurance pursuant to laws set forth in the Insurance Code. Existing law authorizes the Insurance Commissioner to make certain examinations, investigations, and prosecutions and, upon making a determination of the existence of certain conduct, conditions, or grounds, to issue orders reasonably necessary to correct, eliminate, or remedy the conduct, conditions, or grounds.

Existing law exempts from the requirements set forth in the Insurance Code firemen's, policemen's, and peace officers' benefit and relief associations that comply with specified criteria, including, among other things, a requirement that the membership consist solely of peace officers, members of police or fire departments, and emergency medical personnel employed by fire departments, as specified. Existing law prohibits an association from operating or doing business in the state without a certificate of authority.

This bill would require every association that holds a certificate of authority *and that issues long-term disability or long-term care policies or contracts, as specified*, to submit to the commissioner the opinion, as specified, of a qualified actuary as to whether the reserves and related actuarial items that support the policies or contracts issued are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts, and are based on specified actuarial standards and procedures. The bill would also require an association seeking a certificate of authority to file an opinion that meets specified requirements and that establishes that it would have adequate resources to provide benefits, as specified, as required to satisfy its proposed contractual obligations. The bill would require the commissioner to notify the association of the deficiencies in the filing if the association fails to provide an opinion and supporting memoranda to the commissioner that meets the requirements of the bill, as specified. *The bill would require an association that receives that notice to, commencing 30 days from the notification date, include specified disclosure language in all contracts that are not regulated by the department and in certificates evidencing coverage under those contracts.* The bill would also require the commissioner, if he or she determines that the laws governing these associations are inadequate to protect the interests of the members of the associations, to develop and deliver recommendations to the Assembly Committee on Insurance and the Senate Committee on Insurance regarding changes in the law that would better protect the interests of members of the associations. The provisions of the bill would remain in effect only until December 31, 2018, and as of that date ~~are~~ *would be* repealed.

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 11401.5 is added to the Insurance Code,  
 2 to read:  
 3 11401.5. (a) (1) Each association that holds a certificate of  
 4 authority pursuant to this chapter *and that issues long-term*  
 5 *disability or long-term care policies or contracts* shall submit to  
 6 the commissioner the opinion of a qualified actuary as to whether  
 7 the reserves and related actuarial items that support the policies  
 8 or contracts issued pursuant to this chapter, including policies and

1 contracts issued by entities established by these associations that  
2 provide benefits described in this chapter, are based on assumptions  
3 that satisfy contractual provisions, are consistent with prior reported  
4 amounts, and are based on actuarial standards and procedures  
5 established by the American Academy of Actuaries and the  
6 Actuarial Standards Board. An association that holds a certificate  
7 of authority pursuant to this chapter shall file its ~~initial~~ opinion no  
8 later than July 1, 2016. *The opinion shall have been completed no*  
9 *earlier than December 31, 2013.*

10 (2) *An association is considered to have issued a long-term care*  
11 *or disability policy or contract if it self-funds all or part of the*  
12 *resulting obligation. An association that markets long-term policies*  
13 *or contracts issued by an insurer that is admitted by the department*  
14 *to offer insurance products in the state is exempt from this*  
15 *reporting requirement.*

16 (2)

17 (3) An association seeking a certificate of authority pursuant to  
18 this chapter shall file an opinion, to the extent feasible, that  
19 establishes that it would have adequate resources to provide  
20 benefits described in this chapter as required to satisfy its proposed  
21 contractual obligations.

22 (b) The opinion required by subdivision (a) shall include an  
23 opinion with supporting memoranda consistent with the same  
24 qualified actuary as to whether the reserves and related actuarial  
25 items held in support of the policies and contracts, when considered  
26 in light of the assets held by the association with respect to the  
27 reserves and related actuarial items, including, but not limited to,  
28 the investment earnings on the assets and the considerations  
29 anticipated to be received and retained under the policies and  
30 contracts, and shall make adequate provision for the association's  
31 obligations under the policies and contracts, including, but not  
32 limited to, the benefits under any expenses associated with the  
33 policies and contracts.

34 (c) The opinion required by subdivision (b) shall be governed  
35 by the following provisions:

36 (1) It shall include a memorandum, in form and substance  
37 consistent with actuarial standards and procedures ~~established by~~  
38 *acceptable to* the American Academy of Actuaries and the  
39 Actuarial Standards Board, in support of the opinion.

1 (2) If the association fails to provide an opinion and supporting  
2 memoranda to the commissioner that meets the requirements of  
3 this section, the commissioner shall notify the association of the  
4 deficiencies in the filing, and shall make a specific request that  
5 identifies the issues that should be addressed in an amended filing.

6 (3) (A) *An association that receives a notification from the*  
7 *commissioner pursuant to paragraph (2) shall not indicate in any*  
8 *form of communication that it is operating under the auspices of,*  
9 *or was established under, the authority of any provision of this*  
10 *code, the commissioner, or the department, and shall, commencing*  
11 *30 days from the date of the notification from the commissioner,*  
12 *include the following language in all contracts that are not*  
13 *regulated by the department, and in certificates evidencing*  
14 *coverage under those contracts, in capital letters and in a minium*  
15 *of 12-point type:*

16  
17 *“THE BENEFITS PROVIDED BY THIS CONTRACT ARE NOT*  
18 *SUBJECT TO REGULATION BY THE CALIFORNIA*  
19 *DEPARTMENT OF INSURANCE, AND THE CONTRACT IS NOT*  
20 *GUARANTEED BY THE CALIFORNIA INSURANCE*  
21 *GUARANTEE ASSOCIATION.”*

22  
23 *(B) The requirements of this paragraph shall continue until the*  
24 *association satisfies the requirements of this section.*

25 (d) If the commissioner determines, after a review of the filings  
26 from the associations, that the laws governing these associations  
27 are inadequate to protect the interests of the members of the  
28 associations, he or she shall develop and deliver recommendations  
29 to the Assembly Committee on Insurance and the Senate  
30 Committee on Insurance regarding changes in the law that would  
31 better protect the interests of members of the associations.

32 (e) This section shall remain in effect only until December 31,  
33 2018, and as of that date is repealed, unless a later enacted statute,  
34 that is enacted before December 31, 2018, deletes or extends that  
35 date.

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