

AMENDED IN ASSEMBLY AUGUST 25, 2000

AMENDED IN ASSEMBLY JULY 6, 2000

AMENDED IN ASSEMBLY JUNE 12, 2000

AMENDED IN SENATE MAY 8, 2000

AMENDED IN SENATE APRIL 13, 2000

SENATE BILL

No. 2107

Introduced by Senator Speier

February 25, 2000

An act to amend Sections 12921 and 12975.7 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 2107, as amended, Speier. Insurance: settlement agreements: administrative.

Existing law permits the Insurance Commissioner to impose penalties for various violations of provisions of the Insurance Code. Existing law permits the Insurance Commissioner to settle administrative actions brought to enforce the provisions of the Insurance Code or other laws that impose the duty upon the commissioner to regulate the business of insurance in this state.

This bill would specify the extent of the authority of the commissioner in the settlement with an insurer of an administrative action.

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 12921 of the Insurance Code is
2 amended to read:

3 12921. (a) The commissioner shall perform all duties
4 imposed upon him or her by the provisions of this code
5 and other laws regulating the business of insurance in this
6 state, and shall enforce the execution of those provisions
7 and laws.

8 (b) In an administrative action to enforce the
9 provisions of this code and other laws regulating the
10 business of insurance in this state, any settlement is
11 subject to all of the following:

12 (1) The commissioner may delegate the power to
13 negotiate the terms and conditions of a settlement but the
14 commissioner may not delegate the power to approve the
15 settlement.

16 (2) Unless specifically provided for in a provision of
17 this code, the commissioner may not agree to, ~~stipulate,~~
18 ~~or order~~ any of the following:

19 (A) That the respondent contribute, deposit, or
20 transfer any moneys or other resources to a nonprofit
21 entity.

22 (B) That a respondent contribute, deposit, or transfer
23 any fine, penalty, assessment, cost, or fee except to the
24 commissioner for deposit in the appropriate state fund
25 pursuant to Section 12975.7.

26 (C) That the commissioner may or shall direct the
27 transfer, distribution, or payment to another person or
28 entity of any fine, penalty, assessment, cost, or fee.

29 (D) The use of the commissioner's name, likeness, or
30 voice in any printed material or audio or visual medium,
31 either for general distribution or for distribution to
32 specific recipients.

33 (3) The commissioner may only agree to, ~~stipulate, or~~
34 ~~order~~ payment to those persons or entities to whom
35 payment ~~is~~ *may be* due because of the respondent's
36 violation of a provision of this code or other law regulating
37 the business of insurance in this state.



1 (4) A settlement may only include the sanctions
2 provided by this code or other laws regulating the
3 business of insurance in this state, except that the
4 settlement may include attorney's fees, costs of the
5 department in bringing the enforcement action, and
6 future costs of the department to ensure compliance with
7 the settlement agreement.

8 SEC. 2. Section 12975.7 of the Insurance Code is
9 amended to read:

10 12975.7. All moneys received by the commissioner in
11 payment of lawful fees or reimbursements pursuant to
12 this code shall be transmitted to the State Treasurer to be
13 deposited in the State Treasury to the credit of the
14 Insurance Fund. Unless specified in this code to be
15 deposited in a different fund, all moneys received by the
16 commissioner in fines, penalties, assessments, costs, or
17 other sanctions shall be transmitted to the State Treasury
18 for deposit in the General Fund. The money in the
19 Insurance Fund received from the commissioner
20 pursuant to this section is hereby appropriated as follows:

21 (a) To pay the refunds authorized by this code.

22 (b) The balance of the money in the fund shall be used
23 for the support of the Department of Insurance as
24 authorized by the Budget Act and for related cash flow
25 needs.

