AMENDED IN ASSEMBLY APRIL 23, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL No. 866

Introduced by Assembly Member Niello

February 26, 2009

An act to amend Section ~~10089.26~~ *10089.13* of the Insurance Code, relating to the California Earthquake Authority.

LEGISLATIVE COUNSEL'S DIGEST

AB 866, as amended, Niello. California Earthquake Authority.

Existing law requires the California Earthquake Authority to issue policies of basic residential earthquake insurance to any owner of a qualifying residential property, as specified. *The California Earthquake Authority is required to annually report, as specified, to the Legislature and the Insurance Commissioner on the authority's conditions and affairs. In verification of the matters set forth in the annual report, the Department of Finance is required to approve independent qualified auditors selected by the Insurance Commissioner to examine the books and accounts relating to all matters concerning the financial and program operations of the California Earthquake Authority. The Insurance Commissioner is required to file a certified report of that examination with specified members of the Legislature within 10 days of its receipt. Existing law requires that the report of the examination be made available to the public.*

This bill would ~~state, instead, that the authority is required to issue a policy of basic residential earthquake insurance to any owner of a qualifying residential property, as specified~~ *require that the certified report of the examination be posted on the official Internet Web site of the California Earthquake Authority*.

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

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

SECTION 1. Section 10089.13 of the Insurance Code is amended to read:

10089.13. (a) One year following its commencement of operations, and annually thereafter by each May 1, the authority shall report to the Legislature and the commissioner on program operations in a format prescribed by the commissioner. The report shall include, but shall not be limited to, the financial condition of the authority, a description of all rates and rating plans approved for use in the authority, an evaluation of the functioning of the authority in light of its stated purpose of making residential property insurance and residential earthquake insurance more available. The report shall also include an analysis of the growth by market share of residential property insurance of participating insurers compared to nonparticipating insurers, any adverse consequences on the various insurance distribution systems resulting from the operation of the authority or alterations in the growth of the residential property insurance market share between participating insurers and nonparticipating insurers, any adverse consequences of the various insurance distribution systems resulting from the operation of the authority or alterations in the growth of homeowners' insurance market share between participating insurers and nonparticipating insurers, and an analysis of any recommended program changes to permit the authority to better fulfill its stated purpose. In making this determination the board shall be mindful of the competitive nature of the market and how any decision can negatively impact insurers who are currently competing in the marketplace.

(b) The annual report shall include full information describing the following matters relating to the authority's condition and affairs:

(1) The property or assets held by the authority, including the amount of cash on hand and deposited in banks to its credit, the amount of cash in the hands of servicing insurance companies, the amount of any stocks or bonds owned by the authority, specifying

the amount, number of shares, and the par and market value of each kind of stock or bond, and all other assets, specifying each.

(2) The liabilities of the authority, including the amount of losses due and unpaid, the amount of claims for losses resisted by the authority and the amount of losses in the process of adjustment or in suspense, including all reported and supposed losses, the amount of revenue bonds or other debt financing issues under Section 10089.29 or Section 10089.50, and all other liabilities.

(3) Income of the authority during the preceding year, specifying premiums received, interest money received, and income from all other sources, specifying the source.

(4) Expenditures of the authority during the preceding year, specifying the amount of losses paid, the amount of expenses paid by category, and the amount of all other payments and expenditures.

(5) The costs and scope of all reinsurance and capital market contracts entered into by the authority under Section 10089.10.

(c) As part of the annual report, the authority shall make a separate, summary report on the financial capacity of the authority to pay claims made against the authority. Copies of this report shall also be made available to the public. The report shall include, but shall not be limited to, the following information, valued as of 30 days prior to the date of the report:

(1) The available capital of the authority.

(2) The liabilities of the authority.

(3) The amount of all assessments previously made and the amount of assessments that may be made in the future under Section 10089.23.

(4) The amount of the reinsurance under contract and actually available to the authority.

(5) The amount of all revenue bonds or other debt financing previously issued or contracted for and the amount of all revenue bonds or other debt financing that may be issued or contracted for in the future under Section 10089.29.

(6) The amount of surcharges previously assessed against policyholders and the amount of surcharges that are currently outstanding against policyholders under Section 10089.29.

(7) The amount of capital committed and actually available by contract from private capital markets that is available to pay claims against the authority.

(8) The amount of all assessments previously made and the amount of all assessments that may be made in the future under Section 10089.30.

(9) The amount of all assessments previously made and the amount of all assessments that may be made in the future under Section 10089.31.

(d) In verification of the matters set forth in the annual report provided for in subdivision (a), the Department of Finance shall approve independent qualified auditors selected by the commissioner to examine the books and accounts relating to all matters concerning the financial and program operations of the authority. The commissioner shall file a certified report of the examination with the President pro Tempore of the Senate, the Speaker of the Assembly, the Chairpersons of the Senate and Assembly Insurance Committees, and the Chairperson of the Senate Committee on Judiciary within 10 days of its receipt. Copies of this report shall also be made available to the public. The expense of examining the books and accounts of the authority shall be paid out of the operating funds of the authority. *The report shall be posted on the official Internet Web site of the California Earthquake Authority.*

(e) The authority shall, within 120 days following a seismic event that results in the payment of claims by the authority, and within one year of a major seismic event that results in the payment of claims by the authority, submit to the President pro Tempore of the Senate, the Speaker of the Assembly, the Chairpersons of the Senate and Assembly Insurance Committees, and the Chairperson of the Senate Committee on Judiciary, and the commissioner a concise written report of program operations related to that seismic event. The reports shall include, but not be limited to, progress on payment of claims, claims payments made and anticipated, and the functioning of the authority in response to the seismic event. Copies of this report shall also be made available to the public.

~~SECTION 1. Section 10089.26 of the Insurance Code is amended to read:~~

~~10089.26. (a) The authority shall issue a policy of basic residential earthquake insurance, including earthquake loss assessment policies for individual condominium unit properties, to any owner of a qualifying residential property, as long as the~~

~~owner has secured a policy of residential property insurance from a participating insurer.~~

~~(1) For purposes of this section, earthquake loss assessment coverage shall be issued in a minimum amount of fifty thousand dollars ($50,000) for individual condominium units valued at more than one hundred thirty-five thousand dollars ($135,000). Earthquake loss assessment coverage shall be issued in a minimum amount of twenty-five thousand dollars ($25,000) for individual condominium units of one hundred thirty-five thousand dollars ($135,000) in value or less. The value of the land shall be excluded when determining the value of the condominium, as it relates to the earthquake loss assessment coverage offered by the authority.~~

~~(2) The panel shall submit to the board, and the board shall approve, rates for earthquake loss assessment coverage that reasonably balance the earthquake loss assessment coverages offered and the potential exposure to earthquake loss resulting from an earthquake loss assessment policy as compared to the coverages offered and the potential exposure to earthquake loss resulting from residential property other than individual condominium policies.~~

~~It is the intent of the Legislature, to the extent practicable, that rates charged by the authority to condominium loss assessment policyholders and residential property owner policyholders are treated equitably, and that a proportionate share of premiums is paid for potential exposure to loss, to the authority.~~

~~(b) Nothing in this section shall prohibit a participating or nonparticipating insurer from offering a condominium earthquake loss assessment policy for different amounts of coverage other than those offered by the authority.~~

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