

AMENDED IN ASSEMBLY MAY 4, 2009

AMENDED IN ASSEMBLY APRIL 23, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## ASSEMBLY BILL

**No. 866**

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**Introduced by Assembly Member Niello**

February 26, 2009

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An act to amend Section 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 by May 1~~, to the Legislature and the Insurance Commissioner on the authority's conditions and affairs, *as specified*. 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 require *the California Earthquake Authority to make the annual report by August 1* and would 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: yes.

State-mandated local program: no.

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

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

3 10089.13. (a) One year following its commencement of  
4 operations, and annually thereafter by each ~~May~~ *August* 1, the  
5 authority shall report to the Legislature and the commissioner on  
6 program operations in a format prescribed by the commissioner.  
7 The report shall include, but shall not be limited to, the financial  
8 condition of the authority, a description of all rates and rating plans  
9 approved for use in the authority, an evaluation of the functioning  
10 of the authority in light of its stated purpose of making residential  
11 property insurance and residential earthquake insurance more  
12 available. The report shall also include an analysis of the growth  
13 by market share of residential property insurance of participating  
14 insurers compared to nonparticipating insurers, any adverse  
15 consequences on the various insurance distribution systems  
16 resulting from the operation of the authority or alterations in the  
17 growth of the residential property insurance market share between  
18 participating insurers and nonparticipating insurers, any adverse  
19 consequences of the various insurance distribution systems  
20 resulting from the operation of the authority or alterations in the  
21 growth of homeowners' insurance market share between  
22 participating insurers and nonparticipating insurers, and an analysis  
23 of any recommended program changes to permit the authority to  
24 better fulfill its stated purpose. In making this determination the  
25 board shall be mindful of the competitive nature of the market and  
26 how any decision can negatively impact insurers who are currently  
27 competing in the marketplace.

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

31 (1) The property or assets held by the authority, including the  
32 amount of cash on hand and deposited in banks to its credit, the  
33 amount of cash in the hands of servicing insurance companies, the

1 amount of any stocks or bonds owned by the authority, specifying  
2 the amount, number of shares, and the par and market value of  
3 each kind of stock or bond, and all other assets, specifying each.

4 (2) The liabilities of the authority, including the amount of losses  
5 due and unpaid, the amount of claims for losses resisted by the  
6 authority and the amount of losses in the process of adjustment or  
7 in suspense, including all reported and supposed losses, the amount  
8 of revenue bonds or other debt financing issues under Section  
9 10089.29 or Section 10089.50, and all other liabilities.

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

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

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

19 (c) As part of the annual report, the authority shall make a  
20 separate, summary report on the financial capacity of the authority  
21 to pay claims made against the authority. Copies of this report  
22 shall also be made available to the public. The report shall include,  
23 but shall not be limited to, the following information, valued as of  
24 30 days prior to the date of the report:

25 (1) The available capital of the authority.

26 (2) The liabilities of the authority.

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

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

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

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

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

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

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

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

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