AMENDED IN ASSEMBLY MAY 19, 2010

SENATE BILL No. 1406

Introduced by Committee on Banking, Finance and Insurance (Senators Calderon (Chair), Cogdill, Correa, Cox, Florez, Kehoe, Liu, Lowenthal, Padilla, Price, and Runner)

February 19, 2010

An act to amend Section 10083 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 1406, as amended, Committee on Banking, Finance and Insurance. Earthquake insurance: coverage offer.

Under existing law, a policy of residential property insurance may not be issued or delivered or, under certain circumstances, initially renewed by an insurer unless the named insured is offered coverage for loss or damage caused by an earthquake. The required offer of earthquake coverage is authorized to be made prior to, concurrent with, or within 60 days following the issuance or renewal of a residential property insurance policy.

This bill would provide that in addition to affording administrative flexibility to insurers for the routine management of their business, the above provision should be construed as authorizing an insurer, for a period not to exceed 60 days following the issuance or renewal of a residential property insurance policy, to focus its claims and other resources on its services to existing policyholders in the event of an earthquake and to temporarily defer the mandatory offer and its associated workload, including any inspections or other underwriting activity. *The bill would also provide that the requirement that insurers make all mandatory offers of earthquake coverage prior to, concurrent* *with, or within 60 days following the issuance or renewal of a residential property insurance policy would not change.*

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

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

SECTION 1. Section 10083 of the Insurance Code is amended to read:

10083. (a) The offer of coverage required by Section 10081 may be made prior to, concurrent with, or within 60 days following the issuance or renewal of a residential property insurance policy. If the offer of coverage is mailed to the named insured or applicant, it shall be mailed to the mailing address shown on the policy of residential property insurance or on the application. The offer of earthquake coverage shall contain the following language in at least 10-point boldface type:

YOUR POLICY DOES NOT PROVIDE COVERAGE AGAINST THE PERIL OF EARTHQUAKE.

CALIFORNIA LAW REQUIRES THAT EARTHQUAKE COVERAGE BE OFFERED TO YOU AT YOUR OPTION.

WARNING: THESE COVERAGES MAY DIFFER SUBSTANTIALLY FROM AND PROVIDE LESS PROTECTION THAN THE COVERAGE PROVIDED BY YOUR HOMEOWNERS' INSURANCE POLICY. THERE ARE EXCLUSIONS AND LIMITATIONS SUCH AS OUTBUILDINGS, SWIMMING POOLS, MASONRY FENCES, AND MASONRY CHIMNEYS. THIS DISCLOSURE FORM CONTAINS ONLY A GENERAL DESCRIPTION OF COVERAGES AND IS NOT PART OF YOUR EARTHQUAKE INSURANCE POLICY. ONLY THE SPECIFIC PROVISIONS OF YOUR POLICY WILL DETERMINE WHETHER A PARTICULAR LOSS IS COVERED AND, IF SO, THE AMOUNT PAYABLE.

THE COVERAGE, SUBJECT TO POLICY PROVISIONS, MAY BE PURCHASED AT ADDITIONAL COST ON THE FOLLOWING TERMS:

(A) AMOUNT OF DWELLING COVERAGE: ____

(B) APPLICABLE DEDUCTIBLE: ____ IF YOUR LOSS IS BELOW THIS AMOUNT, YOU MAY NOT RECEIVE ANY PAYMENT FROM YOUR COVERAGE.

YOUR INSURANCE COMPANY OR AGENT WILL PROVIDE WRITTEN NOTICE AS TO HOW THE DEDUCTIBLE APPLIES TO THE MARKET VALUE OF YOUR COVERAGE, THE INSURED VALUE OF YOUR COVERAGE, OR THE REPLACEMENT VALUE OF YOUR COVERAGE.

(C) CONTENTS COVERAGE: ____

IF YOUR LOSS DOES NOT EXCEED THE DEDUCTIBLE FOR THE DWELLING, YOU WILL NOT RECEIVE ANY PAYMENT FOR THIS COVERAGE.

YOUR INSURANCE COMPANY OR AGENT WILL PROVIDE WRITTEN NOTICE AS TO HOW THE DEDUCTIBLE APPLIES TO THE AMOUNT YOU RECEIVE PURSUANT TO THIS COVERAGE.

(D) ADDITIONAL LIVING EXPENSES: ____

(E) RATE OR PREMIUM: ____

YOU MUST ASK THE COMPANY TO ADD EARTHQUAKE COVERAGE WITHIN 30 DAYS FROM THE DATE OF MAILING OF THIS NOTICE OR IT SHALL BE CONCLUSIVELY PRESUMED THAT YOU HAVE NOT ACCEPTED THIS OFFER.

THIS COVERAGE SHALL BE EFFECTIVE ON THE DAY YOUR ACCEPTANCE OF THIS OFFER IS RECEIVED BY US.

(b) When the insurer, agent, or broker establishes delivery of the disclosure form by obtaining the signature of the applicant or insured, or when an insurer, agent, or broker provides the applicant with the disclosure form and the applicant does not return a signed acknowledgment of receipt within 60 days of the date it was provided, there shall be a conclusive presumption that the insurer, agent, or broker has complied with the disclosure requirements of this section.

(c) *(1)* In addition to affording administrative flexibility to insurers for the routine management of their business, subdivision (a) should be construed as authorizing an insurer, for a period not to exceed 60 days following the issuance or renewal of a residential property insurance policy, to focus its claims and other resources on its services to existing policyholders in the event of an earthquake and to temporarily defer the mandatory offer and its associated workload, including any inspections or other underwriting activity.

(2) This subdivision does not vary the requirement that all mandatory offers of coverage required by Section 10081 be made prior to, concurrent with, or within 60 days following the issuance or renewal of a residential property insurance policy, as specified in subdivision (a).

(d) The offer may contain additional provisions not in conflict with or in derogation of this section.

(e) The commissioner may only approve modifications to the language prescribed in subdivision (a) if all of the following conditions are met:

(1) The modifications are not in conflict with or in derogation of any provision of this section or Section 10089.

(2) The modifications are necessary to ensure that the disclosure statement accurately reflects the coverage actually provided by the policy being offered.

(3) The modifications are strictly limited to necessary changes so that the modified disclosure statement is otherwise identical to the disclosure statement prescribed in this section.

(f) Use of the language prescribed by this section, or modified language approved pursuant to subdivision (e), shall constitute compliance with the requirements of Section 10081 by an insurer subject thereto.

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