AMENDED IN ASSEMBLY JUNE 14, 2011

SENATE BILL No. 711

Introduced by Committee on Insurance (Senators Calderon (Chair), Anderson, Corbett, Correa, Gaines, Lowenthal, Price, and Wyland)

February 18, 2011

An act to amend ~~Section 1067.17~~ *Sections 1063.75 and 1067.17* of, and to add Section 1067.19 to, the Insurance Code, and to repeal Section 16 of Chapter 334 of the Statutes of 2010, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 711, as amended, Committee on Insurance. Insurance: *Insurance Guarantee Association:* California Life and Health Insurance Guarantee Association Act.

Existing law establishes the California Insurance Guarantee Association to provide coverage against losses arising from the failure of an insolvent property, casualty, or workers' compensation insurer to discharge its obligations under its insurance policies. The association is managed by a board of governors appointed by the Insurance Commissioner, the President pro Tempore of the Senate, and the Speaker of the Assembly.

Existing law provides that any bonds to provide funds for covered claim obligations for workers' compensation claims shall be issued, as specified, prior to January 1, 2013.

This bill would extend the date for bonds to be issued to provide funds for covered claim obligations for workers' compensation claims, as specified, to January 1, 2023.

Existing law, the California Life and Health Insurance Guarantee Association Act, establishes an association of insurers to pay benefits and continue coverage pursuant to contractual obligations under life and health insurance policies and annuity contracts in the event of the impairment or insolvency of a member insurer that issued the policies or contracts. Existing uncodified law states that specified changes made to the act during the 2009–10 Regular Session of the Legislature do not apply to any member insurer that, before the effective date of those changes, has been placed under an order of liquidation with a finding of insolvency.

This bill would codify that provision.

The bill would make conforming changes.

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 1063.75 of the Insurance Code is amended to read:

1063.75. Any bonds issued to provide funds for covered claim obligations for workers' compensation claims shall be issued prior to January 1, ~~2013,~~ *2023*, in an aggregate principal amount outstanding at any one time not to exceed ~~1.5~~ *$1.5* billion *dollars ($1,500,000,000)*, and any bonds issued or issued to refund bonds shall not have a final maturity exceeding 20 years from the date of issuance. The bonds shall be issued at the request of CIGA, shall be in the form, shall bear the date or dates, and shall mature at the time or times as the indenture authorized by the request may provide. The bonds may be issued in one or more series, as serial bonds or as term bonds, or as a combination thereof, and, notwithstanding any other provision of law, the amount of principal of, or interest on, bonds maturing at each date of maturity need not be equal. The bonds shall bear interest at the rate or rates, variable or fixed or a combination thereof, be in the denominations, be in the form, either coupon or registered, carry the registration privileges, be executed in the manner, be payable in the medium of payment at the place or places within or without the state, be subject to the terms of redemption, contain the terms and conditions, and be secured by the covenants as the indenture may provide. The indenture may provide for the proceeds of the bonds and funds securing the bonds to be invested in any securities and investments, including investment agreements, as specified therein.

CIGA may enter into or authorize any ancillary obligations or derivative agreements as it determines necessary or desirable to manage interest rate risk or security features related to the bonds. The bonds shall be sold at public or private sale by the Treasurer at, above, or below the principal amount thereof, on the terms and conditions and for the consideration in the medium of payment that the Treasurer shall determine prior to the sale.

~~SECTION 1.~~

SEC. 2. Section 1067.17 of the Insurance Code is amended to read:

1067.17. (a) No person, including an insurer, agent, or affiliate of an insurer shall make, publish, disseminate, circulate, or place before the public, or cause directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in any newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio station or television station, or in any other way, any advertisement, announcement, or statement, written or oral, which uses the existence of the California Life and Health Insurance Guarantee Association for the purpose of sales, solicitation, or inducement to purchase any form of insurance covered by the California Life and Health Insurance Guarantee Association Act. Provided, however, that this section shall not apply to the California Life and Health Insurance Guarantee Association or any other entity that does not sell or solicit insurance.

(b) (1) The association shall prepare a summary document describing the general purposes and current limitations of the article and complying with subdivision (c). This document shall be submitted to the commissioner for approval. Sixty days after receiving approval, no insurer may deliver a policy or contract described in paragraph (1) of subdivision (b) of Section 1067.02 to a policyholder or contractholder unless the document is delivered to the policy or contractholder prior to or at the time of delivery of the policy or contract. The document should also be available upon request by the policyholder. The distribution, delivery, or contents or interpretation of this document shall not mean that either the policy or the contract or the holder thereof would be covered in the event of the impairment or insolvency of a member insurer. The description document shall be revised by the association as amendments to the article may require. Failure to receive this document does not give the policyholder, contractholder, certificate holder, or insured any greater rights than those stated in this article. This paragraph shall remain operative only until paragraph (2) becomes operative.

(2) Within 180 days of the effective date of the act that amended this section in the 2009–10 Regular Session, the association shall prepare a summary document describing the general purposes and current limitations of the article and complying with subdivision (c). This document shall be submitted to the commissioner for approval. At the expiration of the 60th day after the date on which the commissioner approves the document, an insurer may not deliver a policy or contract described in paragraph (1) of subdivision (b) of Section 1067.02 to a policy or contract owner unless the summary document is delivered to the policy or contract owner at the time of delivery of the policy or contract. The document shall also be available upon request by a policy owner. The distribution, delivery, or contents or interpretation of this document does not guarantee that either the policy or the contract or the owner of the policy or contract is covered in the event of the impairment or insolvency of a member insurer. The description document shall be revised by the association, as amendments to the article may require. Failure to receive this document does not give the policy owner, contract owner, certificate holder, or insured any greater rights than those stated in this article.

(c) The document prepared under subdivision (b) shall contain a clear and conspicuous disclaimer on its face. The commissioner shall promulgate a rule establishing the form and content of the disclaimer. The disclaimer shall do all of the following:

(1) State the name and address of the life and health insurance guarantee association and insurance department.

(2) Prominently warn the policy owner or contract owner that the California Life and Health Insurance Guarantee Association may not cover the policy or, if coverage is available, it will be subject to substantial limitations and exclusions and conditioned on continued residence in the state.

(3) State that the insurer and its agents are prohibited by law from using the existence of the California Life and Health Insurance Guarantee Association for the purpose of sales, solicitation, or inducement to purchase any form of insurance.

(4) State that the policy owner or contract owner should not rely on coverage under the California Life and Health Insurance Guarantee Association when selecting an insurer.

(5) Provide other information as directed by the commissioner.

~~SEC. 2.~~

SEC. 3. Section 1067.19 is added to the Insurance Code, to read:

1067.19. The amendments made to this article by Chapter 334 of the Statutes of 2010 during the 2009–10 Regular Session of the Legislature shall not apply to any member insurer that, before the effective date of those amendments, has been placed under an order of liquidation with a finding of insolvency.

~~SEC. 3.~~

SEC. 4. Section 16 of Chapter 334 of the Statutes of 2010 is repealed.

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