



## Compliance & Regulatory Update

December 2008

### COMPLIANCE REPORT – GOVERNOR’S SIGNED LEGISLATION

**AB 2044** (Duvall): **Insurance Licensees** – **SIGNED** – establishes a “citation and fine” program to enforce minor violations of the Insurance Code committed by insurance agents and brokers. Currently, the CDI can only issue a verbal warning or institute a formal legal action where producers commit minor violations of the Insurance Code. AB 2044 will allow CDI to issue citations and small predetermined fines. Minor violations include, but are not limited to, failure to display a producer license number in advertisements, failure to report changed background information in a timely manner, and minor misstatements on an application for a license or renewal. AB 2044 also reduces the requirements for producer continuing education from 30 hours every 2 years to 24 hours every 2 years for a broker-agent license.

#### **Compliance Information:**

- Fire & Casualty Broker-Agents licensed for more than four years will see a reduction in their continuing education (CE) hours from 30 to 24 hours.
- Renewal dates for Personal Lines Broker-Agents who also hold an additional license will be combined into one renewal date instead of two renewal dates (one for each license).
- Personal Lines Broker-Agents will be permitted to complete 20 hours of CE during the course of their two-year license term, removing the requirement to complete 10 hours each license term.
- Licensed Agents who are in good standing in another state and move to California may have their examination requirement to obtain a California license waived. The 12 hour Ethics and California Insurance Code course requirement remains in tact for this class of agents.
- Some courses from other nationally recognized designation programs not currently recognized in California will now satisfy the standards for prelicensing and CE requirements including:
  - o Life Underwriter Training Council Fellow (LUTCF), Chartered Life Underwriter (CLU), Accredited Advisor in Insurance (AAI), Chartered Property Casualty Underwriter (CPCU), Certified Insurance Counselor (CIC), Certified Employee Benefit Specialist (CEBS), Chartered Financial Consultant (ChFC), Certified Financial Planner (CFP), Fellow, Life Management Institute (FLMI), Health Insurance Associate (HIA), Registered Employee Benefits Consultant (REBC)
- To qualify for a Life and Disability Insurance Analyst license individuals must be licensed as **both** a life-only and accident and health licensee for five years prior to taking the qualifying exam.
- Establishes a citation and fine program in lieu of the DOI's existing reprimand program to enforce minor violations of the Insurance Code committed by insurance agents, brokers and applicants.

**Position:** **SUPPORT**

**Additional Information:** [AB 2044 \(Duvall\)](#)

**AB 2059** (Nunez): **Mailed Solicitations: Disclosures** – **SIGNED** – requires a person that sends a solicitation by mail that solicits a recipient whose number is not on the national do not call registry to consent to receive information via telephone to include a clear and conspicuous identification of the sender and other information. Additionally, the bill requires a mailing that seeks permission to call such recipient to contain specified information.

**Compliance Information:**

- To send a solicitation by mail to an individual who is listed under the "Do Not Call Registry" and who the sender intends to solicit permission to call, the sender must include specific information/disclosures in the solicitation including:
  - o The name of the individual/company sending the mailing and that is requesting permission to call
  - o The telephone number to which calls are to be placed
  - o Notice that the recipient may be contacted by a telephone solicitor
- No solicitor may:
  - o Seek to offer a prize or to rent, sell, exchange, promote, gift or lease goods or services or documents that can be used to obtain goods or services
  - o Offer or solicit or seek to offer or solicit any extension of credit for personal, family, or household purposes.
  - o Seek marketing information that will or may be used for the direct solicitation of a sale of goods or services to the subscriber
  - o Seek to sell or promote any investment, insurance, or financial services
  - o Seek to make any telephone solicitation or attempted telephone solicitation
- Provides Criminal & Civil Penalties for violation of these provisions

**Position:** **Watch**

**Additional Information:** [AB 2059 \(Nunez\)](#)

**AB 2150 (Berg): Designations – SIGNED** – AB 2150 provides that insurance agents and brokers may not use a "senior" designation in the course of marketing and selling insurance products unless they have completed required hours of training, and the designation has been approved by the Insurance Commissioner.

**Compliance Information:**

- A broker or agent may not use a senior designation unless all of the following have been met:
  - o The broker or agent has been granted the right to use the senior designation by the organization that issues the senior designation and the broker or agent is currently authorized by the organization to use the designation (pending the Commissioner's review of the organization and its standards for such designations)
  - o The senior designation has been approved by the commissioner for use by brokers and agents in the sale of insurance to seniors
  - o The broker or agent has been licensed for at least four years to sell the types of insurance with which the designation is used.
- A broker or agent may not use the senior designation to suggest inaccurate or misleading significance of the designation.
- Requires applicants for the designation to complete a minimum number of hours of education (75 minimum, with review by the Curriculum Board), in topics approved by the Commissioner before granting the right to use the designation. The education must be relevant to the sale of insurance to seniors.
- When using an approved senior designation in writing, the writing must also contain the words "California" or "CA" next to "Insurance Agent" or "Insurance Broker Agent" and "License" and these words shall be located immediately prior to the broker's license number or the agent's license number in type that is the same font (size and type) used for the senior designation.
- A broker or agent holding a designation that was obtained before 1/1/09 may continue to use that designation until 6/1/10, if the organization that issued the designation meets the requirements of the law and certifies in a letter to the broker or agent that he or she has completed at least 75 hours of education in topics relevant to the sale of insurance to seniors.

**Position:** **SUPPORT**

**Additional Information:** [AB 2150 \(Berg\)](#)

**AB 2956 (Coto): Insurance: Agents & Brokers – SIGNED** – provides that an insurance agent is a person who transacts insurance other than life, disability, or health insurance, on behalf of an admitted insurance company. Additionally, the law presumes that a person is acting as an insurance broker may collect and transmit premium or return premium and deliver policies and other documents evidencing insurance.

**Compliance Information:**

- Allows a person acting as an insurance broker, on behalf of an insurance company, to collect and transmit premium or return premium and deliver policies and other documents evidencing insurance. Clarifies that such action will not deem the broker an insurance agent.

**Position: SUPPORT**

**Additional Information: [AB 2956 \(Coto\)](#)**

**Poizner Suggests Underinsurance Legislation on the Horizon**

With more than 1,000 homes lost in Southern California fires in recent months, concerns regarding underinsurance have resurfaced with Insurance Commissioner Steve Poizner suggesting he will tackle the issue in 2009. As of mid-November, the Department of Insurance had received 90 complaints from policyholders who said their insurance did not adequately cover their losses from last fall's fires. While Poizner acknowledged that underinsurance is not the case in the vast majority of claims, he noted that it was not an insignificant concern either saying that it is a "very serious issue."

Insurance representatives have indicated that much of the blame for underinsurance is due to consumers wanting to keep their costs down and not reporting home improvements to insurers, causing policies to reflect lower replacement costs. However, consumer groups are placing the blame on insurance agents who they suggest frequently offer customers less coverage than they actually need so the agent can come up with a more competitive quote. Consumer groups are also suggesting that some insurers try to limit their exposure to fire claims by deterring people from purchasing higher levels of coverage.

Poizner has said his office is working on legislation to address underinsurance, but he has declined to provide details.

**Assemblyman Dave Jones to Run For Insurance Commissioner in 2010**

Democratic Assemblyman Dave Jones has announced his intentions to run for Insurance Commissioner in 2010 to replace the likely Republican gubernatorial candidate Steve Poizner who currently holds the office. The announcement comes after Jones' reelection to his final term in the State Assembly. According to Jones, his candidacy has been endorsed by state Controller John Chiang and incoming Senate President Pro Tem Darrell Steinberg. Stay tuned...

**2008 NOVEMBER ELECTION WRAP UP**

After over 30 years without a supermajority in either house of the California Legislature, Democrats had a real opportunity to obtain two-thirds control (54 Assembly seats, 27 Senate seats) of at least one house and they worked tirelessly to achieve that goal. The two-thirds control represents a critical threshold on fiscal issues – the supermajority needed to pass state budgets, impose tax increases and pass constitutional amendments. While a valiant effort, it appears that they have fallen short of their goal with Democrats still gaining four seats and losing one in the Assembly.

Running with the national Democratic tide, enthusiasm for President-Elect Barack Obama spurred Democratic organizational drives thereby narrowing registration margins in Republican-held districts. Democratic leaders and their allies attempted to utilize the tide by pouring over \$45 million into several swing districts. The Assembly Democrats' drive for 54 seats was prompted, in part, by the state's worsening fiscal situation and the prospect of a continuing budget stalemate and the need to institute

further cuts and/or raise taxes. Republicans have been able to successfully block tax increases in recent years because of the two-thirds vote requirement on spending and tax measures.

Although the best they could have hoped for was falling one seat shy of a two-thirds margin in the Senate, coming within three seats in the Assembly gives Democrats an edge in budget negotiations over spending and taxes. Governor Schwarzenegger has already called for new taxes and spending cuts in the recently called special session to deal with the budget crisis.

### **CONTESTED CALIFORNIA RACES**

#### **SENATE** *Makeup: 24 Democrats, 15 Republicans*

*(Democrats have one vacancy in SD 26, as Senator Ridley-Thomas resigned to take a local elected seat effective December 1<sup>st</sup>, 2008)*

SD 5 – Assemblyman Greg Aghazarian (R) vs. Assemblywoman Lois Wolk (D)

**\*\*Wolk** defeated Aghazarian by a margin of 64.5% to 35.5%.

SD 19 – Former Assemblymembers Tony Strickland (R) vs. Hannah-Beth Jackson (D)

**\*\*Strickland** defeated Jackson by a margin of 50.2% to 49.8%

#### **ASSEMBLY** *Makeup: 50 Democrats, 30 Republicans (Democrats Possible 4 Seat Gain and Loss of 1)*

AD 10 – Jack Sieglock (R) vs. Alyson Huber (D) – **PARTY CHANGE**

**\*\*Huber** defeated Sieglock by a margin of 46.7% to 46.4%

AD 15 – Abram Wilson (R) vs. Joan Buchanan (D) – **PARTY CHANGE**

**\*\*Buchanan** defeated Wilson by a margin of 52.8% to 47.2%.

AD 26 – Bill Berryhill (R) vs. John Eisenhut (D)

**\*\*Berryhill** defeated Eisenhut by a margin of 51.7% to 48.3%.

AD 30 – Danny Gilmore (R) vs. Fran Florez (D) – **PARTY CHANGE**

**\*\*Gilmore** defeated Florez by a margin of 51.7% to 48.3%.

AD 37 – Assemblymember Audra Strickland (R) vs. Ferial Masry (D)

**\*\*Strickland** defeated Masry by a margin of 51.5% to 48.5%.

AD 78 – John McCann (R) vs. Martin Block (D) – **PARTY CHANGE**

**\*\*Block** defeated McCann by a margin of 55.1% to 44.9%.

AD 80 – Gary Jeandron (R) vs. Manuel Perez (D) – **PARTY CHANGE**

**\*\*Perez** defeated Jeandron by a margin of 52.9% to 47.1%.

#### **Proposition 11 – Redistricting** – **APPROVED** (50.9% to 49.1%)

The initiative, which proponents have deemed the “California Voters First Act,” creates a 14-member redistricting commission with responsibility for drawing the boundaries for Assembly, state Senate and Board of Equalization districts after the 2010 census. The district boundaries must follow geographic, city and community lines and ignore partisan political considerations. Eight commissioners will be selected by the state auditor's office in a random drawing of candidates selected by a review panel. Those eight would choose the other six members from the applicant pool.

*If you have any questions regarding any of the topics mentioned in this report, or others not mentioned, please contact Shari McHugh or Dawn Sanders Koepke at 916/440-0850. Thank you!*