



March 2010

Independent Contractor Withholding Issue

Although it is a new year in Sacramento, the Governor and Legislature continue to face the same severe budget shortfalls as in the last several years. Again, as in past years, there tends to be a lack of political will to make the necessary fundamental changes to get California's fiscal house in order. As a result, budget gimmicks are suggested and one such suggestion could negatively affect agents and brokers around the State.

As part of the most recent budget negotiations, Senator Steinberg (D-Sacramento) was proposing a "solution" that would have required all businesses to withhold 3% of payment to independent contractors and submit the tax to the Franchise Tax Board. This proposal would affect NAIFA-California members who are independent contractors as well as our members who do business with independent contractors.

NAIFA-California, along with over 1,000 other trade associations and business groups, lobbied against the proposal and launched aggressive grassroots campaigns. The result was that the proposal was not included in the recent mid-year budget package. However, the issue continues to be on the table for discussion and we are expecting it to be discussed in the summer when another round of budget talks begin.

AB 2066 (Jones) – Annuity Sales

Each new year seems to bring another annuity suitability proposal for NAIFA-California's Government Relations Committee to deal with and lobby against. This year is no different thanks to Assembly Dave Jones (D-Sacramento) and his bill AB 2066. Assemblyman Jones is running for Insurance Commissioner and, as a result, he has a very ambitious legislative agenda. AB 2066 proposes to do the following:

- Disclosure – require insurers, brokers, agents and others to disclose all material facts and features of the annuity to seniors.
- Senior Checklist – as part of the sale of an annuity, requires a checklist that elicits critical data, including life expectancy of the senior, whether the senior has sufficient money outside of the annuity to meet unanticipated expenses and disclosure of the agent's commission.
- Improper Annuity Sales – established circumstance where the sale of an annuity to a senior is improper including the senior has a reverse mortgage, the senior would qualify for Medi-Cal, over 50% of the seniors assets are invested in annuities and the surrender penalty period of the annuity exceeds the senior's life expectancy.
- Surrender Penalties – requires compensation paid for selling an annuity to a senior to be spread over the surrender period and limits any surrender penalties from exceeding commissions paid to the agent.

NAIFA-California is opposed to AB 2066 and will continue to argue that the unfortunate reality is that abusive practices in the annuity marketplace are due to unscrupulous agents who ignore suitability and compliance safeguards already in place. Properly structured annuities can be an incredibly useful tool for seniors when purchased from a trusted insurance agent or advisor and a solid insurance company. The assertion that AB 2066 makes is that all annuities for certain individuals are bad investments. NAIFA-California couldn't disagree more with this premise.

AB 989 (Block) -- Defeated

NAIFA-California was fortunate to have a huge victory early in 2010. AB 989 by Assemblyman Marty Block (D-San Diego) would have created a private cause of action for seniors who are "harmed" by an insurance agent and/or insurance company. NAIFA was strongly opposed to the bill and we were successful in convincing the author to not have the bill heard by the Assembly Insurance Committee. The outcome was thanks to intense lobbying of the Committee members and their unwillingness to vote for the bill.

Other Bills of Interest

CA AB 125 **AUTHOR:** De Leon (D)
 TITLE: Retirement: Employee Savings Program

SUMMARY:

Creates the Employee Savings Program to be administered by the Board of Administration of the Public Employees' Retirement System with the intent of promoting greater retirement savings for private employees in the State in a convenient, low-cost, and portable manner. Specifies that eligible employees of participating employers are not members of PERS. Requires the board to report to the Legislature regarding the feasibility of creating a defined benefit plan option to be available to employers.

STATUS:

08/27/2009 In SENATE Committee on APPROPRIATIONS: Not heard.

CA AB 1868 **AUTHOR:** Jones (D)
 TITLE: Insurance: Life: Disability: Discretionary Clauses

SUMMARY:

Prohibits a policy, contract, certificate, or agreement offered or issued in this state providing for life insurance, disability insurance, or disability income protection coverage from containing a provision purporting to reserve discretionary authority to the insurer, or an agent of the insurer, to interpret the terms of the policy contract. Requires the Commissioner to disapprove any disability policy that contains a provision of this type.

STATUS:

02/25/2010 To ASSEMBLY Committee on INSURANCE.

CA AB 2022 **AUTHOR:** Gaines (R)
 TITLE: Property Insurance: Residential Disclosure

SUMMARY:

Revises the mandatory language of the State Residential Property Insurance Disclosure to simplify and rearrange the description of types of coverage, and to include additional information concerning insurance limits. Revises the Residential Property Insurance Bill of Rights.

STATUS:

03/04/2010 To ASSEMBLY Committee on INSURANCE.

CA AB 2041 **AUTHOR:** Villines (R)
TITLE: Income Tax: Health Savings Accounts

SUMMARY:

Amends the Personal Income Tax Law. Allows a deduction in connection with health savings accounts. Makes the deduction an amount equal to the aggregate amount paid in cash during the taxable year by, or on behalf of, an eligible individual to a health savings account of that individual. Provides related conformity to federal law with respect to treatment of the account as a tax-exempt trust, the allowance of rollovers from Archer Medical Savings Accounts and health flexible spending arrangements.

STATUS:

03/10/2010 In ASSEMBLY. Read second time and amended. Re-referred to Committee on REVENUE AND TAXATION.

CA AB 2110 **AUTHOR:** De La Torre (D)
TITLE: Disability Insurance: Premium Payments: Grace

SUMMARY:

Amends existing law that requires disability insurance policies to include a provision setting forth a grace period for making premium payments.

STATUS:

03/04/2010 To ASSEMBLY Committee on INSURANCE.

CA AB 2470 **AUTHOR:** De La Torre (D)
TITLE: Individual Health Care Coverage

SUMMARY:

Requires the established standard information and health history questions to be used by health care service plans and health insurers for their individual health care coverage application to be reviewed and approved before use by a health care service plan or health insurer. Requires all plans and insurers to complete medical underwriting prior to issuing a health care service plan contract or health insurance policy.

STATUS:

03/11/2010 To ASSEMBLY Committee on HEALTH.

CA AB 2578 **AUTHOR:** Jones (D)
TITLE: Health Care Coverage: Rate Approval

SUMMARY:

Amends the Knox-Keene Health Care Service Plan Act. Requires approval by the Department of Managed Health Care or the Department of Insurance of an increase in the amount of the premium, co-payment, coinsurance obligation, deductible, and other charges under a health care service plan or health insurance policy.

STATUS:

In ASSEMBLY. Read second time and amended. Re-referred to Committee on HEALTH.

CA SB 316 **AUTHOR:** Alquist (D)
TITLE: Health Care Coverage: Disclosures

SUMMARY:

Amends the Knox-Keene Health Care Service Plan Act which requires health care service plans and disability insurers, when presenting a plan contract or policy for examination or sale to an individual purchaser or to the representative of a group of a specified number of individuals, to disclose the ratio of premium costs to health services paid or of incurred claims to earned premiums for the preceding year. Increases the size of the group of purchasers to which such disclosures shall be made.

STATUS:
02/11/2010 To ASSEMBLY Committee on HEALTH.

CA SB 810 **AUTHOR:** Leno (D)
TITLE: Single-Payer Health Care Coverage

SUMMARY:

Establishes the State Healthcare System to be administered by the newly created State Healthcare Agency under the control of a Healthcare Commissioner appointed by the Governor. Makes all residents eligible for specified health care benefits under the system, which would, on a single-payer basis, negotiate for or set fees for health care services provided through the system and pay claims for them. Extends the application of insurance fraud laws to providers of services and products under the system.

STATUS:
01/28/2010 In SENATE. Read third time. Passed SENATE. *****To ASSEMBLY.

CA SB 1408 **AUTHOR:** Senate Banking, Finance and Insurance Committee
TITLE: Insurance

SUMMARY:

Amends an existing law that requires the formation of the Life and Health Insurance Guarantee Association to provide coverage for direct, nongroup Life, health, annuity, and supplemental policies or contracts of insurance in case of the impairment or insolvency of a member insurer. Makes clarifying and conforming changes in provisions declaring the purpose of the law.

STATUS:
03/11/2010 To SENATE Committee on BANKING, FINANCE AND INSURANCE.