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AB-1104 California Life and Health Insurance Guarantee Association. (2019-2020)

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Assembly Bill No. 1104

CHAPTER 236

An act to amend Sections 1067.06 and 1067.11 of the Insurance Code, relating to insurance.

[Approved by Governor September 05, 2019. Filed with Secretary of State September 05, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1104, Calderon. California Life and Health Insurance Guarantee Association.

Existing law creates the Department of Insurance, headed by the Insurance Commissioner, and prescribes the department's powers and duties. Existing law establishes the Office of Principle-Based Reserving within the department and authorizes the commissioner to hire and assign department staff, and to retain actuaries and consultants, to assist with the preparation and implementation of principle-based valuation. Existing law authorizes the commissioner to impose an annual assessment on an insurer, based on the insurer's position in a tiered system relating to the gross annual life insurance premium written by the insurer in California during the immediately preceding year. Existing law requires an insurer with long-term care insurance contracts covering more than 10,000 lives to annually file disclosure reports with the commissioner and the department's Office of Principle-Based Reserving.

Existing law requires the formation of the California Life and Health Insurance Guarantee Association to provide coverage for persons for direct, nongroup life, health, annuity, and supplemental policies or contracts of insurance, except as specified, in case of failure in the performance of contractual obligations under policies and contracts because of the impairment or insolvency of the member insurer that issued the policies or contracts. Existing law requires the board of directors of the association consist of not less than 9 nor more than 13 member insurers, as specified. Existing law authorizes the board to assess the member insurers for the purpose of providing funds necessary to carry out the powers and duties of the association. Existing law requires the association to annually provide a financial report to the commissioner and the chairs of the Senate Insurance Committee and the Assembly Insurance Committee that includes the maximum amount of coverage that the association may provide based on the assessments.

This bill would direct the Insurance Commissioner to appoint 2 additional members to the board of directors who represent the public generally. The bill would prohibit an officer, director, or employee of an insurance company or health maintenance organization, or any person engaged in the business of insurance from serving as a public representative. The bill would authorize the commissioner to impose an annual assessment on an insurer that issues or renews long-term care policies in an amount up to \$1,000,000 based on the insurers' pro rata share of the costs the department incurs reviewing, analyzing, and reporting on disclosure reports submitted by long-term care insurers and the association, but not to exceed reasonable regulatory costs.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1067.06 of the Insurance Code is amended to read:

1067.06. (a) The board of directors of the association shall consist of not less than 9 nor more than 13 member insurers serving terms as established in the plan of operation. The insurer members of the board shall be selected by member insurers subject to the approval of the commissioner. The board shall also include two additional members who represent the public generally. The public representatives shall be appointed by the commissioner. A public representative may not be an officer, director, or employee of an insurance company or a health maintenance organization, or any person engaged in the business of insurance. Vacancies on the board shall be filled for the remaining period of the term by a majority vote of the remaining board members, subject to the approval of the commissioner. To select the initial board of directors, and initially organize the association, the commissioner shall give notice to all member insurers of the time and place of the organizational meeting. In determining voting rights at the organizational meeting each member insurer shall be entitled to one vote in person or by proxy. If the board of directors is not selected within 60 days after notice of the organizational meeting, the commissioner may appoint the initial members.

(b) In approving selections or in appointing members to the board, the commissioner shall consider, among other things, whether all member insurers are fairly represented.

(c) Members of the board may be reimbursed from the assets of the association for expenses incurred by them as members of the board of directors, but members of the board shall not otherwise be compensated by the association for their services.

SEC. 2. Section 1067.11 of the Insurance Code is amended to read:

1067.11. To aid in the detection and prevention of insurer insolvencies or impairments:

(a) It shall be the duty of the commissioner to do the following:

(1) To notify the commissioners of all the other states, territories of the United States, and the District of Columbia when the commissioner takes any of the following actions against a member insurer:

(A) Revocation of license.

(B) Suspension of license.

(C) Makes a formal order that the company restrict its premium writing, obtain additional contributions to surplus, withdraw from the state, reinsure all or any part of its business, or increase capital, surplus, or any other account for the security of policy owners or creditors.

The notice shall be mailed to all commissioners within 30 days following the action taken or the date on which the action occurs.

(2) To report to the board of directors, the Legislature, and the Governor when the commissioner has taken any of the actions set forth in paragraph (1) or has received a report from any other commissioner indicating that any action has been taken in another state. The report to the board of directors, the Legislature, and the Governor shall contain all significant details of the action taken on the report received from another commissioner.

(3) To report to the board of directors when the commissioner has reasonable cause to believe from an examination, whether completed or in process, of a member company that the company may be an impaired or insolvent insurer.

(4) To furnish to the board of directors the NAIC Insurance Regulatory Information System (IRIS) ratios and listings of companies not included in the ratios developed by the National Association of Insurance Commissioners, and the board may use the information contained therein in carrying out its duties and responsibilities under this section. The report and the information contained therein shall be kept confidential by the board of directors until that time as it is made public by the commissioner or other lawful authority.

(b) The commissioner may seek the advice and recommendations of the board of directors concerning any matter affecting the commissioner's duties and responsibilities regarding the financial condition of member insurers and companies seeking admission to transact insurance business in this state.

(c) The board of directors may, upon majority vote, make reports and recommendations to the commissioner upon any matter germane to the solvency, liquidation, rehabilitation, or conservation of a member insurer or germane to the solvency of any company seeking to do insurance business in this state. Those reports and recommendations shall not be considered public documents.

(d) The board of directors shall, upon majority vote, notify the commissioner of any information indicating a member insurer may be an impaired or insolvent insurer.

(e) The board of directors may, upon majority vote, request that the commissioner order an examination of a member insurer that the board in good faith believes may be an impaired or insolvent insurer. Within 30 days of the receipt of the request, the commissioner shall begin the examination. The examination may be conducted as a National Association of Insurance Commissioners examination or may be conducted by persons that the commissioner designates. The cost of the examination shall be paid by the association and the examination report shall be treated as are other examination reports. In no event shall the examination report be released to the board of directors prior to its release to the public, but this shall not preclude the commissioner from complying with subdivision (a).

The commissioner shall notify the board of directors when the examination is completed. The request for an examination shall be kept on file by the commissioner, but it shall not be open to public inspection prior to the release of the examination report to the public.

(f) The board of directors may, upon majority vote, make recommendations to the commissioner for the detection and prevention of insurer insolvencies.

(g) Reports, information, and recommendations from the board to the commissioner and from the commissioner to the board under this section shall be treated as confidential and shall not be considered public documents except as otherwise specifically provided in this section or by specific action of the board or commissioner.

(h) For valuation years ending in 2019 and later, an insurer with long-term care insurance contracts in force covering more than 10,000 lives as of the valuation date shall file disclosure reports with the commissioner and the department's office of principle-based reserving. The reports shall be in compliance with the long-term care insurance-specific requirements developed in Actuarial Guideline 51 to be incorporated in the National Association of Insurance Commissioners' Valuation Manual. The reports shall be submitted no later than April 1 for the previous calendar year.

(i) On or before April 1, 2019, and on or before each April 1 thereafter, the association shall provide an annual financial report to the commissioner and the chairs of the Senate Insurance Committee and the Assembly Insurance Committee. The report shall include the maximum amount of coverage the association can provide pursuant to subparagraph (A) of paragraph (1) of subdivision (e) of Section 1067.08. The report shall cover the previous calendar year.

(j) Notwithstanding any other law, the commissioner may annually assess a company that issues or renews long-term care policies in an amount up to one million dollars (\$1,000,000) based on the insurers' pro rata share of the costs the department incurs reviewing, analyzing, and reporting on disclosure reports submitted pursuant to subdivisions (h) and (i), but not to exceed reasonable regulatory costs.