NORWOOD & ASSOCIATES
This Week in Sacramento

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California Links

State Senate

State Assembly

Eight Fire Insurance Bills Introduced; Concepts Taken from Insurance Commissioner

There are currently eight fire insurance related measures that have been introduced in the Legislature. All of which are ideas proposed by Insurance Commissioner Dave Jones.

AB 1740 (Daly, Dem-Anaheim) deletes the provisions regarding the actual cash value of the claim of total loss to the structure and instead requires that the actual cash value of the claim, for either a total or partial loss to the structure or its contents, be the amount it would cost the insured to repair, rebuild, or replace what was lost or injured less a fair and reasonable deduction for physical depreciation based upon its condition at the time of the injury or the policy limit, whichever is less. The industry is inclined to be neutral on the bill.

AB 1772 (Aguiar-Curry, Dem-Napa) extends the minimum time limit during which an insured may collect the full replacement cost of a loss relating to a state of emergency to 36 months. It maintains mandatory six months extensions for good cause and is retroactive to retroactive to 2005. Since it is limited to state of emergency, extending to 36 months may not have that substantial an impact, and the good cause provision already exists. It was not the intent of the author for it to be retroactive, but this needs to be removed to receive a neutral carrier position.

AB 1797 (Levine, Dem-Marin County) requires insurers to provide an estimate of replacement value for the insured property for new business and at renewal, and defines replacement value as described in regulations. Further, if an insurer fails to comply with this requirement the insurer will be liable to the insured for the actual cost to replace the property, minus the amount of the policy coverage. The wording is unclear as is the intent, but as worded it appears to tie the requirement to all of the insurance to value (ITV) regulations, not just the definition “replacement value” in the regulations. So arguably insurers would have to conduct a full ITV estimate for new business and at each renewal. The liability provision is a non-starter.

Department of Insurance

Secretary of State

Official Legislative Information

AB 1800 (Levine) requires insurers to provide a hard copy and electronic copy of a certified copy of the policy (including endorsement and the declaration page) to an insured upon request. If a covered loss is not experienced, the insurer may provide the documents electronically. Insurers will oppose unless it is amended. It only applies if building or purchasing a like house (so no windfall.)

AB 1875 (Wood, Dem-Healdsburg) requires an insurer to offer extended replacement cost coverage of no less than 50% for Coverage A, B, C, and D, when issuing or renewing a policy of residential property insurance and requires the insurer to disclose the premium costs for extended replacement cost coverage. Carriers will oppose unless it is amended. The bill currently requires an offer of extended replacement cost for all coverages. It needs to be narrowed to coverage A.

SB 824 (Lara, Dem-Bell Gardens) provides that if a property is in a county where state of emergency is declared, insurers must offer to renew at least once, regardless of if loss occurred. It severely limits the ability to nonrenew (non-ability to underwrite.) Prior approval by the Insurance Commissioner materially reduces the number of policies written by an insurer in a particular geographic area. It provides mitigation discounts and continued coverage for mitigation - for certain wildfire mitigation techniques. Industry strongly opposes.

SB 894 (Dodd, Dem-Napa) provides that in event of disaster renewal increases from 12 months to two renewals, or 24 months, whichever is greater. Also, insurers have to offer / write new business during that period. If nonrenewal after this period, carriers must report so to the Commissioner. If within five years of a disaster, an insurer decides it will not renew or offer in a declared disaster area, this must be reported to the Insurance Commissioner. Insurers strongly oppose this idea.

SB 897 (McGuire, Dem-Healdsburg) requires insurers to provide an additional living expense (ALE) list in writing of items covered under believes covered. It may use the Department of Insurance list to comply. In lieu of collecting ALE, insureds may collect fair rental value for the damaged property. Advance payment for ALE is a minimum of four months. In event of total loss, advance payment of no less than 25% of policy limit for contents without inventory. Insurers must accept groupings. In event of total loss upon request of insured, insurers are required to settle for no less than 80% of policy limit for contents in lieu of requiring the insured to file an itemized claim. Insurers oppose this bill for a number of reasons, including its fraud perpetuation.

Workers Compensation Aggregate Disability Payment Bill Dies

The opposition effort of the American Insurance Association and Association of California Insurance Companies helped defeat AB 1295 (Chu, Dem-San Francisco). The bill required that

if a denial of treatment requested by a treating physician is subsequently overturned by independent medical review or by the Workers Compensation Appeals Board, any temporary disability paid or owing from the date of the denial until the treatment is authorized would not be included in the calculation of the aggregate disability.

Current law requires every employer to establish a utilization review process and establishes an independent medical review process to resolve disputes over a utilization review decision. Current law requires that aggregate disability payments for a single injury occurring on or after certain dates be limited.

The California Applicants Attorneys Association sought the bill, arguing it is inequitable for temporary disability benefits to be exhausted because necessary treatment was unreasonably denied, and the denial delayed the injured worker's recovery and return to work.

Auto Rate Survey Legislation Sought By California Personal Lines Trade Association Dies Again

AB 1679 (Burke, Dem-Inglewood) did not receive a vote before legislative deadline this week. The same situation occurred last year. This bill has two major components which address recently issued Department of Insurance (CDI) regulations. Specifically, it supersedes CDI regulations addressing anti-steering practices for automobile repairs paid for by insurers with different rules that allow more flexibility with respect to insurer communication to claimants. It also allows for a new, more flexible safe harbor survey methodology, which would have been available in addition to the current methodology specified in regulation, for establishing a market labor rate for automobile repairs.

Numerous insurers and business groups support this bill, noting it is fair, more efficient, and will keep premiums lower. Insurers report that after two months of the regulations being in place, they are seeing coordinated efforts from certain auto body shops demanding unprecedented hourly rate increases ranging from $5 to $40. One insurer projects a California family with two cars and a teenaged driver could see their auto insurance increase by $64 per year due to the regulations, and insurers believe initial trends would lead to a $280 to $300 million increase in the cost of auto repairs statewide.

CDI opposes this bill, indicating it erodes consumer protections in the area of auto body collision repair and harms consumers to the benefit of insurance companies. Auto body shops and machinists, Consumer Attorneys of California, California New Car Dealers Association, and Consumer Federation of California also oppose this bill. Auto body shops in particular support CDI's recent regulations and oppose the new labor rate survey provisions for fear it will lead to artificially low labor rates.

There is speculation the bill did not move forward because an influential fiscal committee chair was upset with insurance industry defeat of a measure sponsored by the chair. AB 1679 needed to be approved by its fiscal committee today to move forward.

Bad Labor Bill Dies in Committee

This week the Assembly Appropriations Committee heard AB 5, a proposal that would have mandated that small employers with as few as 10 employees offer those employees who have the skills and experience additional hours of work before bringing on a new employee or contractor. The bill came with a host of mandates, including: the employee must contact each employee even if the employee has stated they are not interested in additional hours; after contacting employees the employer must conduct a "transparent and nondiscriminatory process" to pick amongst those available; and offer hours to employees in locations where they do not work if they have multiple locations.

Among the concerns held by employers regarding the bill was the fact that it opened up multiple avenues for lawsuits from employees. AB 5 provided that employees could either file a complaint with the Division of Labor Standards Enforcement or enter civil litigation for any violation of the bill, even those that are not clearly defined. One such improperly defined provision was the fact that the bill required employers to retain documentation of all offers made to employees along with work schedules and written statements. This requirement came with not timeline for document retention, and no specific explanation of what constituted a satisfactory offer of additional hours. However as AB 5 did not meet the legislative fiscal deadline it has died for the year.

Assembly Speaker and Nurses Still Fighting over Healthcare

Even after SB 562, a bill that would have established a system of single-payer healthcare in California, was put aside last year, groups are still fighting over the fate of the bill and universal healthcare as a whole. After Assembly Speaker Anthony Rendon shelved the bill, calling it "woefully incomplete" for a number of reasons including the lack of a funding scheme for the system's $450 billion price tag, the California Nurses Association led the charge against him. The CNA accused Rendon of killing the bill to benefit insurance companies and big-dollar donors, has threatened to have the Speaker recalled and claims to have been working on the bill as it sits idle.

Rendon however claims the opposite, saying that "Absolutely nothing has happened with the bill," he said. "The sponsors of the bill have sat on their hands and done nothing for the past six months. None of the authors have made any significant amendments. We're looking for

all the same things in 562 that we were looking for six months ago." During the legislative recess Rendon called for a series of informal hearings in the form of the Assembly Select Committee on Health Care Delivery Systems and Universal Coverage, which had its third hearing this week. However as of yet it appears that very little progress, if any, has been made on moving the controversial bill forward.