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OFFICE OF THE  
CITY ATTORNEY

JAMES P. JACKSON  
CITY ATTORNEY

THEODORE H. KOBAY, JR.  
ASSISTANT CITY ATTORNEY

CITY OF SACRAMENTO  
CALIFORNIA

October 26, 1988

APPROVED  
BY THE CITY COUNCIL

NOV 1 1988

OFFICE OF THE  
CITY CLERK

City Council  
City of Sacramento  
Sacramento, CA 95814

Honorable Members in Session:

SUBJECT: Propositions 79 (School Facilities Bond Act);  
88 (Deposit of Public Money in Federally  
Insured Industrial Loan Companies); 95  
(Hunger and Homeless Funding); and 100  
(ICAN/Good Driver Initiative)

SUMMARY

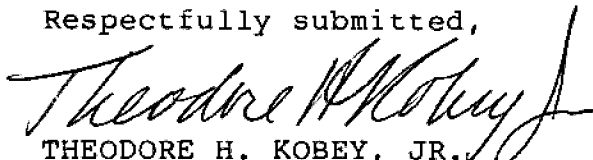
The Law and Legislation Committee requested that persons interested in November initiatives present their views to the Committee. Accordingly, the above measures were heard by the Committee on October 20, 1988. The Committee actions on the measures were as follows:

<u>Proposition</u>	<u>Description</u>	<u>Action</u>
79	School Facilities Bond Act	Supported
88	Deposit of Public Money in Federally Insured Industrial Loan Companies	Supported
95	Hunger and Homeless Funding	Opposed
100	ICAN/Good Driver Initiative	Supported

In all cases the Committee made recommendation to the full Council because the legislative procedure does not permit the Committee to take final action on these measures.

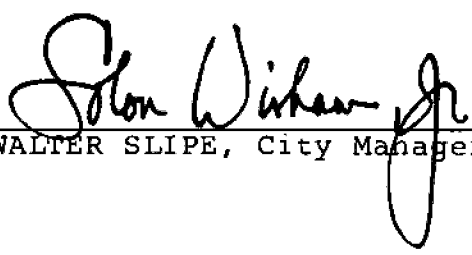
Attached are the materials which were presented to the Committee, together with resolutions reflecting the Committee's recommendations.

Respectfully submitted,



THEODORE H. KOBAY, JR.  
Assistant City Attorney

FOR SUBMITTAL TO CITY COUNCIL:

For:   
WALTER SLIPE, City Manager

# RESOLUTION NO. 88-940

Adopted by The Sacramento City Council on date of

## RESOLUTION IN SUPPORT OF PROPOSITION 79, THE SCHOOL FACILITIES BOND ACT

APPROVED  
BY THE CITY COUNCIL

NOV 1 1988

OFFICE OF THE  
CITY CLERK

WHEREAS, the need for school construction is 5 billion dollars by the year 1990; and

WHEREAS, passage of Proposition 13 required school districts to rely on the state to finance construction projects; and

WHEREAS, the school-age population is growing faster than the ability to supply school buildings; and

WHEREAS, school districts are forced to use gymnasiums, cafeterias, stages, and other teaching spaces for classrooms; and

WHEREAS, California schools provide less square footage per student than most other states; and

WHEREAS, the California student population is expected to grow by 450,000 in the next five years; and

WHEREAS, more than one-third of California's existing schools are over 30 years old; and

WHEREAS, Proposition 79 will help provide new schools in growing areas and badly needed repairs to older schools;

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby support the passage of Proposition 79.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

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August, 1988

Dear Council Member:

I am writing to ask for your Council's public endorsement of Proposition 79, the School Facilities Bond act of 1988, and your personal endorsement as well.

A yes vote for Proposition 79 is vital to the future educational excellence in California. In many school districts, there simply is not enough space to house all the students and the problem is predicted to get worse.

Estimates from the State Department of Finance indicate that California will need an additional 800 new schools, or over 21,000 new classrooms by 1993 alone. This problem must be solved and solved quickly! It is essential that we act now!

The Prop. 79 campaign has created a statewide coalition of education, business, agriculture and civic leaders who are actively pursuing every avenue to ensure that we win. They share our recognition of the fact that quality facilities will help the state reach its goal of excellence in education.

Your Council's public endorsement will be an important boost for our efforts. In fact, the Council's public endorsement is a critical part of our effort to win a Yes vote on Prop. 79.

Enclosed for your review is a fact sheet outlining the key points of Prop. 79 and why its passage is necessary to increase the quality of our children's education. Also enclosed is a draft resolution you may wish to consider as well as an endorsement card.

Thank you for your help and support. I look forward to hearing of your action.

Sincerely,  
*Mamie Starr*

Mamie Starr  
Chairperson  
Yes on 79

Honorary Co-Chairpersons  
Honorable George Deukmejian,  
Governor of California  
Bill Honig, State Superintendent of  
Public Instruction

Campaign Officers  
Mamie Starr  
Coalition for Adequate School  
Housing  
Richard Lyon  
California Building Industry  
Association  
Dave Ackerman  
California Chamber of Commerce  
Jim Donnelly  
California Taxpayers Association

Bond Measure Authors  
Senator Marian Bergeson  
Assemblyman Jack O'Connell

Campaign Managers/Consultants  
Russo, Watts + Rollins, Inc.

Campaign Coordinator  
Andee Press-Dawson  
(916) 448-2426

Steering Committee  
Associated General Contractors  
Association of California School  
Administrators  
California Association of County  
Superintendents of Schools  
California Association of School  
Business Officials  
California Business Properties  
Association  
California Movement for Educational  
Reform  
California School Boards Association  
California State PTA  
California Teachers Association  
The Irvine Company  
League of California Cities  
League of Women Voters of California

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**KEY FACTS**  
**SCHOOL FACILITY NEEDS IN CALIFORNIA**

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Statistics according to the State Department of Finance:

**\*\* Over 1 million new pupils will enroll in California public schools over the next six years swelling K-12 enrollments to 5.5 million students.**

**\*\* An average increase of 140,000 students each year is expected to swell the public school facilities;**

**\*\* In counties projected to have more than 100,000 students by 1996, the following are expected to experience the highest student population increases (comparing 1987 K-12 enrollment to 1996 projected K-12 enrollment)**

Riverside County .....	72%
San Bernardino County .....	60%
San Joaquin County .....	57%
Sacramento County .....	42%
Kern County .....	42%
San Diego County .....	38%
Fresno County .....	36%

**\*\* California will need an additional 800 new schools or over 21,000 new classrooms by 1993.**

**\*\* California currently has 1024 school districts comprising:**

- \* 7,125 school sites (campuses);
- \* 50,000 buildings with 160,000 classrooms;
- \* 425 million square feet of space on over 100,000 acres.

**\*\* 55% of California's public school facilities were constructed between 1949 and 1964:**

- \* More than 1/3 are now 30 years of age or older.

**\*\* Insufficient funds for new construction, maintenance, rehabilitation, and reconstruction, coupled with the increasing aging of our facilities, have caused the school facilities needs to grow geometrically.**

- \* Many schools contain asbestos materials which are hazardous to the health of students and staff. These materials should be eliminated.

**\*\* Funding shortfall:**

- \* There are current funding requests of \$6.5 billion for new construction, deferred maintenance, modernization, and reconstruction;
- \* There are \$1.1 billion in new construction and modernization projects that are ready to commence immediately but are prohibited from starting because of a lack of funding;
- \* The \$800 million in State General Obligation Bonds authorized by the voters in June will be fully apportioned by the end of the year.

**\*\* California requires school districts to squeeze more students into each school than the citizens of nearly all other states:**

- \* California's space standards per student for schools are among the lowest in the nation.
- \* Among the 10 states with state standards, California provides 38% less space per student.
- \* California allows on average 59 square feet per student in elementary schools and 85 square feet per student in secondary schools.

27B

# RESOLUTION NO. 88-941

Adopted by The Sacramento City Council on date of

RESOLUTION IN SUPPORT OF PROPOSITION 88  
RELATING TO DEPOSIT OF PUBLIC MONEY IN  
FEDERALLY INSURED INDUSTRIAL LOAN COMPANIES

APPROVED  
BY THE CITY COUNCIL  
NOV 1 1988  
OFFICE OF THE  
CITY CLERK

WHEREAS, Proposition 88 will allow the deposit of public funds in industrial loan companies insured by the Federal Deposit Insurance Corporation (FDIC); and

WHEREAS, Proposition 88 will therefore allow more flexibility for the deposit of public funds in financial institutions;

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby endorse the adoption of Proposition 88 at the November 8, 1988 general election.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK



# Assembly California Legislature

CHAIRMAN  
FINANCE AND INSURANCE  
COMMITTEE

COMMITTEES **27B**

AGRICULTURE  
EDUCATION  
JUDICIARY

STATE CAPITOL  
P O BOX 942849  
SACRAMENTO, CA 94249-0001  
(916) 445-7931

31 E. CHANNEL STREET  
RM 306  
STOCKTON, CA 95202  
(209) 948-7479

PATRICK JOHNSTON  
ASSEMBLYMAN, TWENTY-SIXTH DISTRICT  
REPRESENTING SAN JOAQUIN COUNTY

September 7, 1988

Dear Community Leader:

I am writing to ask for your support for Proposition 88 on the November 8, 1988 statewide ballot.

Proposition 88, which I sponsored, is a technical amendment to the State Constitution designed to help taxpayers get the most from their tax dollars. This constitutional amendment would benefit the public by ensuring that state and local governments can get the most competitive interest rates on deposits of public funds.

The California Constitution currently permits state and local government deposits in banks, savings and loans and credit unions. Proposition 88 would allow the Legislature to also permit public agency deposits in FDIC-insured industrial loan companies.

An estimated \$45 million in public funds were already deposited with industrial loan companies until recently when the State Banking Superintendent determined that a technical amendment is needed to permit state and local governments to make such deposits. A similar constitutional amendment (Proposition 45) to allow public deposits in credit unions was overwhelmingly approved by California voters in the June 1986 election by a 65.8 percent to 34.2 percent margin.

Here's why allowing deposits of public funds in industrial loan companies makes good sense:

- Greater interest income for state and local governments would result by ensuring the most competitive interest rates. Industrial loan companies typically offer slightly higher interest rates.

September 7, 1988

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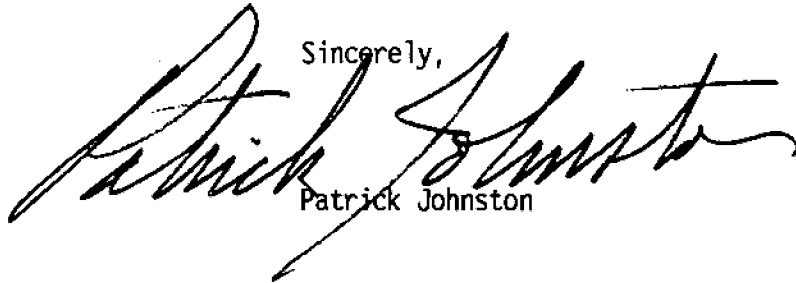
- Public deposits in federally-insured industrial loan companies would be as safe as those in banks since they would be subject to the same regulatory requirements as public deposits in other financial institutions.
- Industrial loan companies have a long history of more than 70 years of service to California savers, consumers and small businesses.

The State Assembly and Senate overwhelmingly approved placing this amendment on the ballot on votes of 70-1 and 37-0 respectively. Proposition 88 has also been endorsed by numerous state and local government leaders and organizations including the California Taxpayers Association; Los Angeles County Treasurer Sandra Tracey; U.S. Congressmen Howard Berman, Mervyn Dymally and Vic Fazio; and, many others. A non-partisan committee is now forming to work for passage of the amendment on the November 8, 1988 general election ballot.

We're hoping you will endorse this constitutional amendment and join together with other community leaders and organizations in supporting this campaign. I have enclosed a postage-paid reply card for your use -- **please fill out this postcard and return it as soon as possible.**

Your endorsement and help will be crucial in rallying support behind Proposition 88. Please feel free to call the campaign office at (916) 444-2671 if you have any questions or if we can be of any assistance. I await your reply.

Sincerely,



Patrick Johnston

P.S. I have also enclosed for your information a fact sheet and a copy of the ballot argument in support of Proposition 88 signed by Assemblyman John Lewis (R-Orange), State Controller Gray Davis and myself (no argument was submitted in opposition).



## BALLOT ARGUMENT FOR PROPOSITION 88

A yes vote on Proposition 88 will help us as taxpayers get the most for our tax dollars. Proposition 88 is common sense legislation that *benefits taxpayers throughout California by ensuring state and local governments can get the most competitive interest rates on deposits of public funds backed by the full faith and guarantee of the federal government.*

*Proposition 88 will increase funds available for needed government services WITHOUT increasing taxes.*

Public funds have been deposited for many years in federally-insured banks and savings and loan associations. In 1986, California overwhelmingly voted to allow public deposits in credit unions. Proposition 88 similarly allows deposits of public funds in industrial loan companies insured by the Federal Deposit Insurance Corporation (FDIC).

Just like individuals and businesses, state and local governments (including schools, water and park districts, as well as cities and counties) deposit funds in financial institutions to earn interest until needed. Proposition 88 is a non-partisan technical amendment that includes federally-insured industrial loan companies along with banks, savings and loans and credit unions on the list of authorized deposit institutions.

Here's why allowing deposits in federally-insured industrial loan companies makes sense:

- Proposition 88 provides more options to public finance officers responsible for reviewing and selecting financial institutions, which encourages competition for government deposits.
- More competitive interest rates will earn greater interest income on taxpayer dollars since industrial loan companies typically offer slightly higher interest rates.
- *Public deposits in industrial loan companies are as safe as those in banks -- they are FDIC-insured and subject to the same regulatory requirements as public deposits in other financial institutions.*
- Industrial loan companies have a long history of more than 69 years of service to California savers, consumers and small businesses.

*We believe governments should maximize interest income on deposits of taxpayer dollars while preserving the safety of public funds.* Industrial loan companies offer highly competitive interest rates on government deposits. **SO PROPOSITION 88 WILL SAVE TAXPAYER MONEY FOR NEEDED PUBLIC SERVICES BY EARNING MORE ON DEPOSITS.**

*Federally-insured industrial loan institutions provide depositors the same protections offered by banks:*

- Industrial loan companies are regulated by the State of California and the FDIC.
- More than \$3,000,000,000 is currently deposited in over 400 industrial loan company offices statewide.
- The State Banking Department regulates the deposit of public funds.

*Proposition 88 was overwhelmingly approved by the State Legislature -- by votes of 37-0 in the Senate and 70-1 in the Assembly -- because it saves taxpayers dollars, encourages competition for deposits of public funds, and provides additional safe and secure deposit options to public finance officers.*

Please join us in voting **YES ON Proposition 88.**

State Assemblyman Patrick Johnston (D) Twenty-Sixth District  
Stockton, CA.

State Assemblyman John Lewis (R) Sixty-Seventh District  
Orange, CA.

State Controller Gray Davis.

**PROPOSITION 88**  
**FACT SHEET**

**HOW WILL CALIFORNIA TAXPAYERS BENEFIT  
FROM PASSAGE OF PROPOSITION 88?**

Approval of Proposition 88 will help Californians get the most for their tax dollars. Since industrial loan companies generally pay relatively higher rates, Proposition 88 would allow state and local governments to maximize interest income on taxpayer funds while fully insuring deposits.

Proposition 88 provides state and local finance officers with an additional competitive market for deposits by including federally-insured industrial loan companies as authorized depositories for public funds.

**WHAT IS THIS CONSTITUTIONAL AMENDMENT ABOUT?**

Proposition 88 is a non-partisan technical amendment to the California Constitution that allows the State Legislature to add federally-insured industrial loan companies to the list of authorized deposit institutions that currently includes banks, savings and loans, and credit unions. In 1986, California voters overwhelmingly approved a similar State constitutional amendment (Proposition 45) which allowed government agencies to deposit funds in credit unions.

Assemblymember Pat Johnston (D-Stockton) has authored legislation (AB 3752) that would amend California law to allow state and local public agencies -- ranging from park and school districts to cities and counties -- to deposit funds in industrial loan companies insured by the Federal Deposit Insurance Corporation (FDIC). This enabling legislation, which has already passed the State Assembly, can only go into effect with approval of Proposition 88.

### WHAT ARE INDUSTRIAL LOAN COMPANIES?

Industrial loan companies (also known as thrift and loan companies) are state-chartered financial institutions which have provided an important source of business capital, consumer funds and safe, high-yielding saving opportunities since 1917. Currently there are 55 industrial loan companies with assets of \$3.0 billion operating more than 430 offices throughout California. More than 90 percent of all industrial loan accounts are currently insured by the Federal Deposit Insurance Corporation and by July 1990 all deposits will be FDIC-insured.

### WILL IT BE SAFE TO DEPOSIT PUBLIC FUNDS WITH INDUSTRIAL LOAN COMPANIES?

Deposits in federally-insured industrial loan companies are backed by an agency of the federal government. Depositors are assured of the same protections offered at federally-insured banks and savings and loan associations.

### WHO SUPPORTS THE AMENDMENT?

Proposition 88 enjoys widespread support among state and local government leaders and civic organizations including the California Taxpayers Association, State Controller Gray Davis, Los Angeles County Treasurer Sandra Tracey, U.S. Congressmen Howard Berman, Mervyn Dymally and Vic Fazio. The State Legislature overwhelmingly passed a resolution to place this constitutional amendment before California voters on the November 1988 general election ballot by votes of 71-1 in the Assembly and 37-0 in the Senate. Since this change in the law benefits taxpayers and treats all federally-insured financial institutions equally, it has not attracted organized opposition.

**RESOLUTION NO.**

Adopted by The Sacramento City Council on date of

*Council  
took no  
Position*

**RESOLUTION OPPOSING PROPOSITION 95, THE  
HUNGER AND HOMELESS FUNDING INITIATIVE**

WHEREAS, funding of various programs for the homeless, including emergency shelter, job counseling and rental assistance, is the aim of Proposition 95; and

WHEREAS, funding for the programs contemplated by Proposition 95 would result from citations issued by cities and counties for violations of health and safety laws dealing with building standards and food preparation; and

WHEREAS, it is inequitable to require just the food preparation and rental and housing industries to fund the homeless programs contemplated by Proposition 95;

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby oppose the passage of Proposition 95.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

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September 14, 1988

Dear Mayor Anne Rudin:

This is a package of Proposition 95 information. The package includes memos from the California Environmental Health Association, California Restaurant Association, California Grocers Association and California Taxpayers Association on their assessment of Prop 95. Please review the material along with the ballot initiative. I am asking as the President of Sacramento Chapter of California Restaurant Association, that the Sacramento City Council pass a resolution against Prop 95 as an ineffective way to solve the Hungry & Homeless Problem.

Respectfully



Sam D. Manolakas  
President  
Sacramento Chapter  
Calif. Restaurant Assoc.

SDM/tld

Jack McGuire  
ext 82040

## Hunger / Homeless Initiative

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The California Environmental Health Association (CEHA) represents over 1,100 environmental health specialists, primarily working in local county environmental health agencies, who would be affected by passage <sup>the</sup> of this initiative. We agree with the proponent of Housing and Nutritional Assistance initiative that hunger and homelessness in California are severe problems. However, we strongly disagree with the bureaucracy created to address the problem for the following reasons:

- 1). Local government is already overburdened with state mandated programs. Violations of food and housing regulations would require mandatory fines. Local governmental agencies would be responsible for collecting 50-90 million dollars annually. The passage of this initiative would change the role of county agencies from enforcement of food and housing laws to revenue collectors for the state.
- 2). Existing programs for nutrition and housing should be expanded and improved, rather than creating another bureaucratic agency at the state level. Cost effectiveness and efficiency of existing services should be assessed. Creation of another costly state agency and throwing 50-90 million dollars a year into resolving the problem will not be the answer to the housing and nutritional problems of the state.
- 3). By the establishment of mandatory fines for violations of the state housing code, fewer homes may be available for low income people because funds that could be used for rehabilitation would be used to pay fines.
- 4). Issuance of an infraction notice with a mandatory fine may create situations where local government employees are put in highly hostile situations. In most cases annual permit fees are already being paid by food establishments.
- 5). County agencies will be pressured into assessing fines to maintain a local flow of money into the local housing and nutritional programs. Basically staff will be required to find violations to fund another state mandated program.

Again, it must be emphasized that the California Environmental Health Association supports programs for providing housing and nutritional programs for the citizens of California. However, we strongly feel, for the reasons stated above, that the mechanism established by this initiative will create another expensive state agency and add a time-consuming and costly burden to local government. We urge a no vote.

Phone or write comments to:  
Jeff Palgaard  
Maricopa County Env. Health  
385 E. 13<sup>th</sup> St Maricopa, CA 95340

Jeff Palgaard, President  
California Environmental Health Association

(209) 385-7391

Comments must be received by 7/12/88 Tuesday.

Thanks





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## CALIFORNIA RESTAURANT ASSOCIATION

THE ONLY STATEWIDE REPRESENTATIVE FOR CALIFORNIA'S FOOD AND BEVERAGE SERVICE INDUSTRIES  
GOVERNMENT AFFAIRS OFFICE: 1600 K Street, Suite 100, Sacramento, California 95814 916/447-5793

### I. Summary of the Initiative Statute

This Initiative has qualified and will appear on the November ballot. It creates a new corporation and a board of directors to administer programs to meet the nutritional and housing needs of hungry and homeless people in California. Funding for this new corporation, its board, and the programs it will administer will result from a system of citations and fines imposed upon the restaurant and housing industries. This new citation system will be similar to current traffic or parking citation systems. Health and Building inspectors would issue these citations whenever they found any violation of health and safety laws existing on the premises of a restaurant or in rental housing. The fines will be established by the Judicial Council and will range from \$1 to \$250 depending upon the violation. The proposition requires the Judicial Council to raise between \$50 and \$90 million a year from these citations.

### II. Impact on Restaurants

The impact of passage of this Proposition on the restaurant industry will be substantial since it requires \$50 - \$90 million to be raised essentially from this industry. Passage of this proposition will also certainly change the relationship currently existing between health inspectors and restaurants. No longer will a health department official have the discretion to require correction of a problem without issuing a ticket resulting in a fine.

The provisions of this Proposition are ambiguous (as were the prop 65 provisions) and raise questions including, but not limited to the following:

1. Under the California Uniform Retail Food Facilities Law ("CURFFL"), certain violations of its provisions constitute felonies. For example, Health and Safety Code Section 26801 says that if a violation is committed after a previous conviction under the section, or if the violation is committed with intent to defraud or mislead, the violation will be deemed to be a felony. Section 31003 of the initiative indicates that if the prosecuting attorney wishes to do so, he may charge the offense as a misdemeanor, as opposed to an infraction. Does this mean that the felony provisions of Health and Safety Code Section 26801 would be nullified by the initiative?

Also, Section 31003 of the initiative states that if a condition constituting a violation continues "unabated" for 24 hours from the first notice of violation, the prosecuting attorney can treat the matter as a misdemeanor. Does this mean that a restaurant or hotel which committed multiple similar offenses (and, therefore, could be charged with a felony under Health and Safety Code Section 26801), can avoid those felony provisions and, perhaps, misdemeanor penalty provisions altogether by abating the condition within 24 hours? This would seem to be a real loophole for the very type of "bad apple" violators that the initiative purports to punish.

2. Could a single violation be both an infraction and a misdemeanor?



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3. A local health official or building official will have no discretion and must cite each violation as an infraction. As you know, many health officials and building officials enforce the laws under their respective jurisdictions by education and negotiation in most instances, and criminal charges are brought only in the most flagrant cases. These officials are concerned that they will no longer have the ability to "work with the industry" to deal with the most typical health and building code violations.

4. To what extent will health officials and building officials be subjected to liability in the event that they fail to cite each and every arguable violation in a premises? To what extent can cities and counties be held liable for the failure of health officials and building officials to cite each and every such arguable violation?

5. Can a health officer/building official treat a continuing violation as one infraction, or must the health officer/building official treat them as multiple infractions?

6. The purpose of the initiative is to raise between \$50 million and \$90 million per year. Is the Corporation for California (see Section 8699.1 (e) of the initiative) prohibited from accepting more than \$90 million per year?

Conversely, if the schedule of fines established by the Judicial Council fails to raise enough money each year, will the fines be increased to raise sufficient monies? In other words, is the penalty for an infraction going to be the amount necessary to pay off the bonds, or is the amount of the penalty going to be related to the seriousness of the crime? This is an important issue, and it is akin to saying that the penalty for, for example, speeding on the freeway should be sufficient to pay for funding the highway patrol or for funding all of California education, regardless of whether a speeder is one mile over the speed limit or 50 miles over the speed limit. This goes against the whole concept of making the punishment fit the crime.

7. Health and Safety Code Section 26586 requires a hearing in the event of a violation of CURRFL, and Health and Safety Code Section 26587 states that hearing is necessary to prosecution and publication. The initiative would repeal Section 26586. This creates a very muddy situation in which an essential part of the enforcement mechanism under CURFFL will be missing.

8. If an individual pays a fine rather than contest an alleged violation, what effect will this have? Is it akin to a guilty plea? Will it be usable against the individual if it is claimed that there is a subsequent violation (see discussion above regarding treating multiple offenses as felonies). What about double jeopardy?

9. The initiative will cover violations of the provisions of California's Sherman Food, Drug, and Cosmetic Act as they pertain to alcoholic beverages, bottled water, and numerous other food products.

10. The question has arisen as to whether the initiative would apply to commercial buildings. Specifically, the initiative states that provisions of building codes pertaining to residential occupancies will be covered. Many commercial buildings (eq., office buildings) contain residential occupancies.

11. It appears that all food facilities and food establishments including schools, emergency kitchens, shelters for the homeless, missions and food banks, as well as Bed and Breakfast Inns, grocery stores and sidewalk vendors will be subject to fines for inspection violations.

12. Will governmental agencies be liable as landlords/food service operators?

13. The initiative provides for appropriations by the Legislature. Therefore, it is unclear exactly how much money the people of the State of California are ultimately going to end up paying for all of this.

14. Implementation of this Initiative will involve start up costs which are not provided for in the statute. Who will fund the printing and distribution of citation books, the \$1500 per day for the Board meetings, plus the initial staff hiring expense?

15. In addition to the fine for the underlying violation, a provision is made to assess a processing fee for each violation. How will the administrative fees interface with the processing fee? The amount of this final combined fee is unknown at this time.

16. Potential violators will be entitled to demand administrative or search warrants as well as an opportunity for a trial. This will result in an unknown burden for the court system that may or may not be offset by the penalties collected.

17. In order to protect against charges of bribery or actual bribery, solicitation of bribes, graft or corruption, at least two health inspectors may be sent to each rental unit or food facility inspection, thus increasing the county's manpower needs.

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LAW OFFICES  
KAHN, SOARES & CONWAY

JAN L. KAHN  
GEORGE H. SOARES  
A PROFESSIONAL CORPORATION  
RICHARD C. CONWAY  
MICHAEL J. NOLAND  
LEONARD C. HERR

OLD PHONE BUILDING  
221 NORTH DOUTY STREET  
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HANFORD, CALIFORNIA 93232  
(209) 584-3337  
FAX (209) 584-3348  
  
1400 "K" STREET, SUITE 201  
SACRAMENTO, CALIFORNIA 95814  
(916) 448-3826  
(FAX) (916) 448-3850

REPLY TO: Sacramento

June 14, 1988

TO: CASSANDRA PYE  
CALIFORNIA GROCERS ASSOCIATION  
  
FROM: GEORGE H. SOARES *GH*  
  
RE: HOUSING AND NUTRITIONAL ASSISTANCE INITIATIVE

You requested that I review the above-referenced initiative and advise you as to its effect on the California Grocers Association and its members. I have done so and have set forth below my impressions of the initiative.

1. The initiative appears to overstate its case by claiming that the hungry and homeless have reached "epidemic proportions". The initiative does not substantiate the assertion nor does it reference supporting documentation. However, insisting that the sponsors prove their assertions could cast opponents of the measure in a bad light.
2. It claims to alleviate the problems of hunger and homelessness without raising taxes or imposing new taxes on the public. It ignores the fact that the \$50 million to \$90 million of annual expenditure will come from the very citizens it says it will not tax through higher costs.
3. Definitions for affordable housing, homeless person and hungry person are arbitrary at best. For example, affordable housing would mean housing costs not exceeding 25% of gross income. Most middle class homeowners pay in excess of 25% and therefore would be a part of the group that would be subject to the housing and nutrition assistance law as proposed by the initiative. Additionally, the definition for homeless person in part includes anyone who lacks "community ties needed to obtain housing", whatever that means.

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4. The Board of Directors which operates the corporation that handles the funding would consist of four members appointed by the Governor, five by the Senate Rules Committee and five by the Speaker. It may be more appropriate to authorize the Governor to make all or nearly all of the appointments to the Board and give the Senate Rules Committee confirmation authority.
5. The Board voting procedure would allow any five of the fourteen members to make decisions for the entire Board. In light of the fact that the Board will be dealing with up to \$90 million a year, there should be greater involvement by Board members in the final vote.
6. The Executive Director shall be compensated at the same rate as the President of the Public Utilities Commission. The initiative does not set forth the actual salary which is \$78,495 annually.
7. Twelve and one-half percent (12½%) of the annual income to the fund goes for administrative overhead. It seems like it would be more fiscally prudent if any monies collected under the initiative be distributed to counties on a formula basis thereby eliminating the need for another layer of government. The 12½% cap could allow the expenditure of over \$11 million for program administration.
8. Beside the 12½% administrative costs, the program can be charged another 10% by local counties to pay for their administrative costs. This could be another \$9 million which, when combined with the \$11 million available to the corporation's Board of Directors means that over 22% of all collected monies can go for administrative overhead.
9. The initiative states that the problems of hunger and homelessness are matters of statewide concern. That being the case, it seems more appropriate that the state through the General Fund be impacted rather than penalizing businesses which are not in themselves responsible for the problem.
10. The initiative claims that the infraction penalties must be reasonable but instructs the judicial council to work with local agencies and the courts to ensure that a minimum of \$50 million per year and a maximum of \$90 million per year is collected in infraction penalties statewide. If the initiative passes, the businesses subject to the initiative such as retail food facilities, bakeries and retail food processing will be under attack by government employees trying to meet their quota.

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MEMORANDUM  
June 14, 1988  
Page 3

11. In addition to the actual penalties, local agencies can charge a processing fee for each violation in any amount that is needed to cover actual costs. So, beside the \$50 million to \$90 million cost to business, several more millions of dollars will be charged.

GHS/lem

Cal Tax

27C

PROPOSITION 95

HOUSING AND NUTRITIONAL ASSISTANCE.

An initiative statutory amendment placed on the ballot by receiving the required number of signatures.

Summary:

This initiative, promoted by State Board of Equalization member Conway Collis, would create a new government agency to be called the Corporation for California. This independent body within the state Business, Transportation and Housing Agency would oversee new programs for homeless and hungry persons. It would distribute revenue produced from a new citation system to local agencies and charitable organizations for transitional services for hungry and homeless persons.

The initiative would establish a uniform citation system of fines and penalties for housing and food preparation offenses. Violations would constitute an infraction and not a misdemeanor. Penalties for violations are capped at \$250 a day. Citations could be issued each day until violations are corrected.

The citation process in the initiative would be a similar citation process for traffic violations. There would be opportunities to pay the penalty, or challenge the citation.

Misdemeanor penalties would continue to be available at the discretion of the prosecutor for violations existing for more than 24 hours from the notice of violation, or if the violation resulted in injury to any person.

27C

The initiative would establish a 15-member board of directors to administer the Corporation for California. The Board would consist of four members appointed by the Governor, five members appointed by the Senate Rules Committee, five members appointed by the Speaker of the Assembly, and the state Treasurer. The Corporation would have broad authority, including authority to promulgate regulations and to issue revenue bonds and savings bonds.

The initiative would establish within the state Treasury a California Emergency Housing and Nutrition Fund, which would receive 80% of proceeds of penalties collected. It would also establish the California Housing Fund, which would receive 10% of all penalties and proceeds from loans and bond sales. Counties would retain 10% of penalties for paying administrative costs of local agencies issuing citations.

The initiative would provide that 87.5% of revenues in the California Emergency Housing and Nutrition Fund be dispersed to local agencies and 12.5% be used for administration, research, and staffing. It would further provide that 90% of the California Emergency Housing and Nutrition Fund money be allocated back to counties where fine revenue was derived.

County boards of supervisors would be required to appoint committees of no less than nine members to prepare and submit a county plan consistent with specified guidelines that propose spending for emergency shelters, transitional housing, emergency food, nutrition referral programs, health screening, job counseling, child care, education service, emergency rent, and

27C

medical and psychological referral services.

Fiscal Analysis:

According to the Legislative Analyst and the Department of Finance, this initiative would produce an unknown increase in infraction penalties for violations of various codes. However, the initiative states that a minimum of \$50 million and a maximum of \$90 million per year would be collected.

**Supporting Arguments**

- o Estimates range between 100,000 and 200,000 homeless in California, including large numbers of children, elderly, and Vietnam-era veterans. This is a critically important social problem and little is being done about it.
- o One in ten residents of the state is on a food assistance program, while others are turned away. These problems are acute social concerns.
- o The citations would average between \$30 and \$60 and more serious offenses would receive the maximum fine.
- o Revenue produced through the citation system would be put to work productively, paying for much needed emergency and transitional services for the homeless.

**Opposing Arguments**

- o This initiative would set up a new government bureaucracy with a state-level agency and counterpart agencies in each county. This new bureaucracy would be very difficult for the legislature to control and beyond the reach of the governor. It would have authority to raise \$90 million per year or more, appropriate public funds, issue revenue bonds and savings bonds and spend the proceeds, and promulgate regulations.
- o The new citation system would be a full employment act for health inspection officials. The system would allow local agencies to fully recover the administrative cost of inspections. Up to 25% of the fine revenue could be available to the county for administration. An additional 12.5% would be available for research and administration.



- o On the November 1988 ballot, voters will have an opportunity to vote for a \$300 million bond issue for housing for the homeless. This is an easy choice compared to the establishment of a new systems of fines on homes and businesses, and a new bureaucracy.
- o The citation system is not just directed at slumlords. It would authorize citing to homeowners for such things as dislodged baseboards and broken wall plates. Any home could be subject to code violations.
- o Serious problems are also created by earmarking a new revenue in the manner established in this initiative. Earmarking is inconsistent with sound budget policy. It builds rigidity into budgets and impairs the unity of the overall budget. Earmarked revenue tends to stay outside periodic legislative scrutiny of the budget process and priority-setting. Earmarking also results in too little or too much revenue for the purposes for which it is designated.
- o There is a growing trend toward earmarking and "ballot box" budgeting. In 1988, there were at least twenty earmarking proposals before voters, circulated for initiative signatures, or considered by the Legislature. This kind of earmarking has produced a substantial portion of the federal government's current "off budget" financing problems. It is a trend that California should avoid.

Staff Recommendation:

Oppose

27C

# Californians Working Together AGAINST HUNGER AND HOMELESSNESS

## ADVISORY COMMITTEE (partial listing)

Proponents of the Initiative

- Irving Asaff  
President  
MCA Music Entertainment Group
- Gwen Boutiller\*  
Manager  
Emergency Services Team  
Los Angeles United Way, Inc.
- Catherine Camp\*  
Chair  
California Organizing Committee  
for the Hungry and Homeless
- Seamus A. Campi  
President and C.E.O.  
Greater Los Angeles  
Partnership for the Homeless
- The Honorable Conway Collis  
Chairman  
California State Board of Equalization
- Anthony M. Frank  
Chairman and C.E.O.  
First National Financial Corporation
- Sparby Harlan\*  
Executive Director  
Bill Wilson Center
- Raymond L. Ishama, Jr., Esq.  
President  
Los Angeles NAACP
- Robert M. Kaydas  
Executive Director  
California Association of Nonprofits
- Sam Kary\*  
Administrator  
Food & Nutrition Services, Inc.
- Archbishop Roger M. Mahony
- Patricia Duff Medavoy  
D.P. Media Group
- Gerald D. McGee  
Managing Partner  
Ogilvy and Mather
- Grover McKinn  
Managing Director  
L.P. Rothschild, Usterberg, Towbin
- Gordon Pickett  
Chairman, California Council  
Vietnam Veterans of America, Inc.
- Bonnie Rein, Esq.
- William R. Robertson  
Executive Secretary-Treasurer  
L.A. County Federation of Labor  
AFL-CIO
- Marion S. Standish\*  
Executive Director  
California Rural  
Legal Assistance Foundation
- William M. Wardlaw  
Managing Partner  
RJordan and McKinnis
- Lynne Wasserman, Esq.  
Senior Vice President  
Weinstock Entertainment Group
- Rev. Aidan F. Wright-Riggian\*  
Southern Christian Leadership Conference
- Rabbi Isaac Zeldin  
Stephen S. Wise Temple

(Organizational names for  
identification purposes only)

\* denotes Member of Board of Directors

- Barry Feder, Esq.  
Legal Counsel
- Darryl Stryker, Esq.  
Consultant

October 14, 1987

Honorable John Van de Kamp  
Attorney General  
1515 K Street, Suite 511  
Sacramento, CA 95814

[Received  
2:45 PM  
Oct 14, 1987  
Floyd Shum]

Re: California Hunger and Homelessness Act;  
Submission for Title and Summary.

Dear Mr. Van de Kamp:

I am the proponent of the enclosed California Hunger and Homelessness Act. Pursuant to California Elections Code Section 3502, I hereby request that you prepare a title and summary of the chief purposes and points of the proposed measure so the initiative petition may be circulated for signatures. Pursuant to Elections Code Section 3503, enclosed please find a check in the amount of \$200.

Please do not hesitate to contact me at this office if there is any additional information I can provide. I can also be reached through 213/451-5777 or 415/982-7100.

Sincerely,

*Conway H. Collis*  
Conway H. Collis  
On Behalf of  
Californians Working Together

Ex. I

Proposition 95  
Initiative Statute  
Proponent: Conway H. Collis

Date: July 21, 1988

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BALLOT TITLE AND SUMMARY

HUNGER AND HOMELESSNESS FUNDING. INITIATIVE STATUTE. Creates public corporation to disburse funds to counties, other political subdivisions of the state, and non-profit organizations pursuant to county-wide plans, to provide emergency and transitional services for hungry and homeless persons, and for low-income housing as specified. Funding to come from new fines for the violation of existing laws and regulations relating to housing and food preparation, and bonds secured by the revenue from these fines. Includes other provisions. Summary of Legislative Analyst's estimate of net state and local government fiscal impact: The revenue to be collected from new fines is unknown because (1) the measure does not specify the amount of each fine and (2) the measure lets cities and counties decide the number of fines given out. Possibly, several millions of dollars could be collected each year.

BALLOT LABEL

HUNGER AND HOMELESSNESS FUNDING. INITIATIVE. Creates funding program to assist hungry and homeless persons by collecting fines and issuing bonds. Fiscal impact: Amount of fine collections are unknown - possibly, several millions of dollars a year.

AB filed  
Ex 27CII

BALLOT ARGUMENT  
AGAINST  
PROPOSITION 95,  
THE HOUSING AND NUTRITIONAL ASSISTANCE ACT

Finding solutions to the problems of the homeless is a critical concern to every Californian. But Proposition 95 is a costly, unfair, and ineffective way of addressing this serious social issue.

Proposition 95 creates an expensive new government bureaucracy and unfairly penalizes a few to pay for society's responsibilities.

Local grocers, restaurants, innkeepers, apartment owners and even homeowners are the target for \$50 MILLION TO \$90 MILLION IN NEW FINES THAT MUST BE IMPOSED -- to meet the law's quotas -- by local building and environmental health inspectors in every community of the state.

ONE OF EVERY THREE DOLLARS raised can go to pay millions in SALARIES, BENEFITS, OVERHEAD AND RESEARCH costs for this bureaucracy -- not to the homeless.

Worse still, it does not effectively deliver the services most desperately needed to break the cycle of homelessness -- job training and placement, substance abuse counseling and health care for mental and physical illness.

27C

Here are the facts:

- \* Proposition 95 creates a new state agency that has virtually no accountability for how it raises and spends public money. It has the power to issue bonds, spend taxpayers' money, impose quotas for fines and establish costly rules and regulations.
  
- \* Fourteen new political appointees and an executive director -- guaranteed \$78,000 annually in salary -- will direct the new bureaucracy. Who knows how many lawyers and other staff will be added?
  
- \* Each of the 58 counties can also establish new committees, headed up by nine more political appointees, to implement Proposition 95.
  
- \* These fines will be levied on grocery stores, restaurants, inns, or rental properties, for even the most minor violations -- such as a leaking faucet or missing light bulb. Owners and managers will be given no warnings or time to comply -- fines will be issued automatically to meet the law's quotas.

27C

- \* There are OTHER HIDDEN COSTS. Local taxpayers will pay additional costs for processing Inspection and Arrest Warrants, and prosecuting violators through the court system.

Does this sound like an effective way of helping people in need of a home or medical care?

We've heard these promises before -- how one more new government program will help fill an important social need or fund a social program. Remember the campaign promises made about how the lottery would save public education in California?

Proposition 95 is unfair and it hurts entrepreneurs and small business, as well as consumers and renters who will eventually pay higher prices and rents to cover the costs of these fines. Innkeepers, corner grocery store owners, family restaurateurs and property owners will be forced to pay for a problem that belongs to us all -- with millions wasted on an unnecessary new government bureaucracy.

We urge you to vote NO on Proposition 95. It's a well meaning, but misguided proposal for California.

Ex. III  
27C

## **HUNGER & HOMELESSNESS IS UNACCEPTABLE IN CALIFORNIA**

**Proposition 95 will help get hungry and homeless people off the streets and into a job and permanent housing without spending one dollar of tax money!**

Proposition 95 will provide a range of services for those who are hungry and homeless. The money will come from fines imposed on slumlords and unsanitary food establishments - not from your tax dollars!

Proposition 95 will make sure this money goes to those people who need help - not to some ineffective state bureaucracy!

### **How Serious is the Problem?**

Hunger and homelessness have reached epidemic proportions in California, particularly among children, the elderly and Vietnam era veterans:

\*One in ten Californians, including more than one million children, rely on emergency food programs, while thousands more are turned away.

\*An estimated 250,000 Californians are homeless - over 25% are families and children - most are frightened and new to the streets.

Most hungry and homeless people are victims of circumstance - an illness, unemployment, an injury - things that could happen to anyone at anytime.

*Hunger & Homelessness is . . . a pregnant teacher's assistant who cannot work until after delivery and her husband, a carpenter, who hurt his back. One day, their money is gone. They end up sitting on a bus bench, wondering where they will live and what they will eat.*

*Hunger & Homelessness is . . . a mother of two children, running from a violent husband who physically abuses his family. She has run out of time at the local women's refuge. With nowhere to go and no money, the mother and her children are living in the same car they escaped in. For food, they stand in line at a soup kitchen.*

*Hunger & Homelessness is . . . a Vietnam veteran who suffers seizures from his war experience, whose benefit checks did not arrive because he changed addresses and now finds himself hungry and living in a park.*

27C

Hunger & Homelessness is . . . a 61 year old woman whose husband recently died, following a prolonged illness which depleted the couple's savings. She can no longer afford the rent on the apartment they once shared, and now finds herself wandering the streets in search of food and shelter.

**How will Proposition 95 Work?**

Proposition 95 is an innovative new measure which would impose a fine - similar to a traffic ticket - on lawbreakers who violate health, safety and building codes. Money from the fines will go to local governments and non-profit charitable organizations - those most able to make a difference.

Proposition 95 is cost-effective and comprehensive. The program will provide:

- \*emergency food and shelter
- \*job counseling
- \*emergency rent assistance
- \*drug and alcohol treatment
- \*health screening
- \*child care

Proposition 95 will create a new California Savings Bond in small denominations of \$100 or less. Just as small investors once funded a war effort, Californians will help win the war against hunger and homelessness by investing in California Savings Bonds.

Proposition 95 enjoys strong bipartisan support. It will attack the problems of hunger and homelessness without spending one dollar of tax money.

**VOTE YES ON PROPOSITION 95**



Exh. 27C

## Rebuttal to Ballot Argument for Proposition 95

Homelessness is unacceptable. BUT Proposition 95 is ineffective, unfair and wasteful ... and could make the problem *even worse*.

### *THE HOMELESS WON'T BE HELPED BY:*

- creating a huge new government bureaucracy with dozens of political appointees and highly-paid staffers. Fully 25% of funds could be spent for county administration, plus millions more for State staff and administration;
- burdening local taxpayers and governments with heavy new legal and court costs;
- creating an unworkable penalty system using mandatory quotas to raise 50 to 90 million dollars annually. This system is strongly opposed by the same environmental health inspectors required to administer it.

*Proposition 95 could make it harder to help the homeless by giving State government an excuse to wash its hands of the problem.*

58% of the homeless are mentally ill, alcoholics or drug addicts. Proposition 95 will be ineffective at helping these individuals and gives only lip service to rehabilitation and job training.

### *PROPOSITION 95:*

- Automatically fines and unfairly penalizes even minor code violations in restaurants, homes, grocery stores and apartments without allowing time for correction.
- Singles out small businesses, entrepreneurs and property owners to pay for a nationwide problem without requiring most big corporations to pay a dime to help the homeless.

*Under Proposition 95, even local grocers and restaurants providing excess food for the hungry are penalized -- as are school cafeterias and soup kitchens. Did they cause the homeless problem?*

EX. V  
27C

## WE CAN HELP CALIFORNIA'S HUNGRY & HOMELESS

Proposition 95 is an innovative and cost-effective attack on hunger and homelessness -- without using tax dollars or creating a big new bureaucracy. Proposition 95 will provide direct assistance to the hungry and homeless and will help thousands of people become productive members of society.

### Here are the facts:

- **Proposition 95 is fair.** Its funding comes from fines against negligent slumlords and unsanitary food establishments found guilty of serious violations of health and safety codes. There is no tax increase and no responsible business person will pay any added costs. Only lawbreakers who endanger our health and safety will be penalized.
- **Proposition 95 is cost-effective.** Instead of creating a big new state bureaucracy it specifies that services for the hungry and homeless be provided by local governments and non-profit agencies. In fact, Proposition 95 has a strict limit on administrative costs and specifically authorizes only two staff positions.
- **Proposition 95 is innovative.** It attacks the causes of hunger and homelessness. It provides funding for job training, drug and alcohol treatment, health care and mental health counseling, in addition to emergency food and shelter.

With each passing day the problem only grows worse and the solution becomes more costly to us all. By acting now we can begin to put an end to the crisis of hunger and homelessness.

Proposition 95 will begin to move hungry and homeless people from the streets and into a job and permanent housing without increasing taxes.

## VOTE YES ON PROPOSITION 95

Tom Bradley  
Mayor, Los Angeles

William Campbell  
State Senator, 31<sup>st</sup> District

Robert W. Stringham, President  
California Association of Food and Drug Officials

27D

# RESOLUTION NO.

Adopted by The Sacramento City Council on date of

*Council  
2nd No  
Position*

## RESOLUTION SUPPORTING PROPOSITION 100, THE ICAN/GOOD DRIVER INITIATIVE

WHEREAS, California is in the midst of an "insurance crisis"; and

WHEREAS, this will prohibit insurance companies from increasing municipal liability or any commercial insurance more than 15% annually without prior approval; and

WHEREAS, this will prohibit increases in personal insurance lines, such as group health, from exceeding 7.5% annually; and

WHEREAS, this will stabilize the insurance market by eliminating the sharp swings of the insurance cycle; and

WHEREAS, by properly regulating the insurance industry, this will help stabilize liability rates for commercially purchased insurance and help make reinsurance more available for all cities, including self-insured cities; and

WHEREAS, this will force insurance companies to justify municipal liability insurance rates with hard data; and

WHEREAS, this will eliminate the insurance industry's special exemption from anti-trust laws, prohibiting price-fixing and other anti-competitive activities; and

WHEREAS, this will exempt insurance pools or self-insured entities from unnecessary regulation; and

WHEREAS, the Board of Directors of the League of California Cities recommended a "yes" vote on Proposition 100;

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby endorse the adoption of Proposition 100 at the November 8, 1988 general election.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

**ICAN**CONSUMER INSURANCE  
REFORM COALITION  
ID# 880213**Good Driver Initiative****YES ON PROPOSITION 100**

21D

August 1, 1988

Dear Colleague,

We are writing to bring to your immediate attention issues of critical concern for all of us in city government. Two years ago, in the midst of an "insurance crisis," many of us supported Proposition 51 in the hope that insurance would become more available and more affordable. Two years later, the insurance war continues.

Both the No-Fault (Prop. 104) and Coastal Insurance/Polanco (Prop. 101) initiatives on the November ballot are sponsored by the insurance industry. The industry claims these initiatives would provide relief from high auto insurance rates. Unfortunately, the only thing those measures can guarantee is higher profits for insurers. In our opinion, these measures would not be in the best interest of California cities.

Fortunately, there is a real choice on this November's ballot. The Board of Directors of the League of California Cities recommended a "YES" vote on Proposition 100, the ICAN/Good Driver Initiative.

Proposition 100 offers genuine, comprehensive reform of the insurance industry that will benefit California's cities. It will:

- Prohibit insurance companies from increasing municipal liability or any commercial insurance more than 15% annually without prior approval. It will also prohibit increases in personal insurance lines, such as group health, from exceeding 7.5% annually.
- Stabilize the insurance market by eliminating the sharp swings of the insurance cycle. By properly regulating the insurance industry, Proposition 100 will help stabilize liability rates for commercially-purchased insurance and help make reinsurance more available for all cities (including self-insured cities).
- Force insurance companies to open their books and justify municipal liability insurance rates with hard data.
- Eliminate the insurance industry's special exemption from anti-trust laws, prohibiting price-fixing and other anti-competitive activities. Nineteen attorneys general recently brought suit against several insurance companies charging they illegally conspired to withhold insurance from public entities. The ICAN Initiative, by repeal of the anti-trust exemption and forcing the industry to open its books, will prevent this type of anti-competitive activity in the future.
- Exempt insurance pools or self-insured entities from unnecessary regulation.

27D

The Board of Directors of the League of California Cities has recommended "NO" votes on both Propositions 101 and 104. We are asking you to join that opposition. It is based on the impact of Propositions 101 and 104 as set forth below:


- Proposition 104 (No-Fault) would shift the burden of payment for auto accident costs from insurance companies to employers, by requiring workers' compensation to be used, with absolutely NO reimbursement, before an auto insurance company has to pay a claim.
- Proposition 101 (Coastal Insurance/Polanco) goes even further by requiring any and all taxpayer-funded, employer and private benefit sources to foot the bill on auto accidents (with NO reimbursement) before auto insurance companies have to pay. These "first pay" benefits include: workers' compensation, state disability, Medi-Cal, employee sick leave and vacation time, private health insurance, private disability and public hospital care.
- Proposition 104 would make cities liable for the costs of all employee accidents (including those not the fault of their employees) that fall under the established no-fault benefits, either directly (for self-insured cities) or through their insurance.
- Proposition 104 would lock into law the insurance industry's anti-trust exemption, other current unfair practices of the insurance industry (such as withholding information from the public) and virtually prohibit future rate regulation.
- Both initiatives would continue to hold cities fully liable for court and settlement costs in severe auto cases.
- Propositions 101 and 104 would offer NO guaranteed overall rate reduction for any individual city.

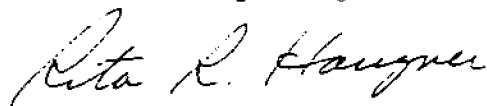
There is a second consumer measure (Prop. 103) sponsored by Voter Revolt. The League has voted to take no position on this initiative.

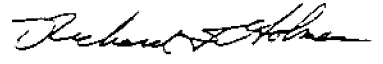
We invite you to join us, along with Mothers Against Drunk Driving (MADD), Attorney General John Van de Kamp, Assemblyman Lloyd Connelly, Congress of California Seniors, Consumer Federation of America, Insurance Consumer Action Network (ICAN), the League of California Cities and a growing number of elected officials, senior, business and other organizations in supporting Prop. 100, the ICAN/Good Driver Initiative.


We encourage your careful study of this measure and urge you to join us by signing and returning the enclosed endorsement card. The press has just reported that the insurance companies plan to spend \$43 million to get their plan through. We need your grassroots support!

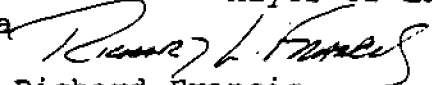
Sincerely,

  
 LIONEL J. WILSON  
 Mayor of Oakland

  
 Rita Haugner  
 Councilmember  
 City of Alameda

  
 Richard Holmes  
 Mayor of Lafayette

  
 R.H. Dorman  
 Mayor of Coronado

  
 Richard Francis  
 Councilmember  
 City of Ventura

# Five Propositions: ONE Responsible Choice

27D

## PROPOSITION 100

The Good Driver Initiative -- sponsored by the Insurance Consumer Action Network (ICAN) -- is the only proposition that offers responsible, comprehensive reform of the insurance industry. It guarantees:

- An immediate 20% auto rate reduction for good drivers and future 20% discounts.

- Your auto rates will be based primarily on your driving record, rather than where you live.

- Repeal of the insurance industry's special interest exemption from anti-trust laws. Insurance companies will no longer be free to fix prices. They will be subject to the same laws that currently prohibit every other major industry from engaging in anti-consumer activities.

- Protection of seniors by cracking down on fraudulent and abusive practices in the sale and advertising of senior health care insurance.

## PROPOSITION 101

The Coastal Insurance/Polanco Initiative is sponsored by the same insurance company that specializes in writing insurance policies for drunk and reckless drivers. Designed to protect their profits and their clients, Proposition 101 would:

- Shift the cost of auto accidents away from insurance companies and onto YOU -- the taxpayer, the consumer, the employer and the employee. Before your auto insurance company would legally have to pay you one cent, YOU would be required to first use all benefits available to you from other sources, including: your sick leave, vacation time, workers' compensation, private health insurance, social security and disability.

- Let drunk drivers off the hook and reward them with the same rate reduction it gives other drivers. It would

actually give drunk drivers a 50% rate reduction in the bodily injury portion of their auto insurance.

- Not guarantee one penny's reduction in your overall auto premium. The insurance companies financing Proposition 101 cleverly mandate a reduction in only a portion of your premium and only for a few years. They would simply make-up the difference -- and then some -- by raising the other portions of your premium.

## PROPOSITION 103

The Voter Revolt Initiative -- sponsored by Access to Justice -- is a well-intended but poorly drafted measure. It contains fatal flaws that render it wholly unacceptable. It would:

- Reward convicted drunk drivers with a 40% so-called "good driver" auto rate reduction! Proposition 103 reduces insurance rates across the board by 20% and then gives an additional 20% reduction to so-called "good drivers". But the initiative fails to *exclude* drunk and other irresponsible drivers from "good driver" status and would thus mandate insurance companies to give drunk drivers a 40% auto rate reduction.

- Make the Insurance Commissioner an elected office but place absolutely no limits on insurance company campaign contributions to candidates for that office.

## PROPOSITION 104

The No-Fault Initiative is sponsored by the insurance industry -- the very folks who continue to increase your rates while they rake in record multi-billion dollar profits (on which they pay little or no federal taxes). At 122 pages and 20,000+ words, Proposition 104 is filled with profit-motivated fine print that would:

- Reward reckless drivers. No-fault lets them off the hook for the accidents

they cause. Suppose a reckless driver hits and injures you and your family. Under no-fault, you could no longer hold the driver responsible. YOU have to try to recover your losses from your OWN insurance company. You know what that means: Your rates will probably go up!

- Virtually guarantee your rates would go UP, not down. There isn't a single word in the 122-page document that guarantees YOUR auto rates will go down one penny. Furthermore, the experience of other no-fault states is an increase in rates! That's why no state has adopted no-fault in over a decade and two have repealed it.

- Allow the insurance industry to rewrite the insurance laws! Although called the "No-Fault" initiative, only one-third of the measure even relates to no-fault. The other 80 pages lock into law a host of unfair and abusive industry practices that guarantee higher profits for them and higher rates for YOU!

## PROPOSITION 106

The Contingency Fee Limit Initiative, also sponsored by the industry, is on the very top of insurance company lawyers' wish lists. It would:

- Give insurance companies and corporations an overwhelming advantage against the average Californian. Limits only YOUR lawyer, not the legal armies of lawyers of insurance companies, major corporations and product manufacturers.

- Not reduce insurance rates. Even the industry's chief spokesman is on public record stating that Proposition 106 would not lower premiums. This initiative does nothing to address the real problems of increased insurance rates and runaway industry profits. Californians want genuine insurance reform, not an initiative that would further stack the decks in favor of insurance companies!

# YES on PROPOSITION 100!

27D

**THE INSURANCE REFORM  
AND CONSUMER PROTECTION  
INITIATIVE**

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<b>SECTION 4. FAIRNESS IN AUTOMOBILE INSURANCE</b>	2
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# INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

**INSURANCE RATES AND REGULATION. INITIATIVE STATUTE.** Requires minimum 20 percent reduction in rates for good drivers from January 1, 1988, levels. Requires companies insure any good driver in counties where company sells automobile insurance; requires 20 percent good driver discount. Funds automobile insurance fraud investigations and prosecutions. Provides consumers access to comparative automobile insurance prices. For all property-casualty, health and disability insurance, prohibits discrimination, price-fixing and other unfair practices. Requires public hearing and Insurance Commissioner approval for all but specified insurance rate changes. Establishes Insurance Consumer Advocate Office. Increases penalties for fraudulent health insurance sales to seniors. Other provisions. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: The effect of this measure on General Fund revenues from gross insurance premium taxes paid by insurance companies and deposited into the fund is unknown, since information is unavailable on the amount of insurance premiums paid by good drivers. Adoption of this measure would result in an initial appropriation of \$10 million from the Insurance Fund, with \$8 million to the Department of Insurance and \$2 million to the Department of Justice for administrative costs. Thereafter, administrative costs for the Department of Insurance would increase approximately \$7 million annually and \$2 million annually for the Department of Justice, payable from the Insurance Fund. Administrative costs for the Department of Motor Vehicles will also increase as a result of this measure by approximately \$400,000 annually.

## SECTION 1. SHORT TITLE

This act shall be known as the "Insurance Reform and Consumer Protection Act of 1988."

## SECTION 2. FINDINGS AND DECLARATIONS

The People of the State of California find and declare as follows:

(a) Californians have the right to fair and reasonably priced insurance and to honest, nondiscriminatory treatment by insurance companies.

(b) Good drivers have been penalized by the unfair practices of insurance companies that place stereotypes ahead of the individual driver's record in determining insurance premiums and that leave good drivers unable to purchase insurance from the company of their choice.

(c) The cost of automobile insurance for good drivers has risen sharply. Present rates are at least 20 percent higher than needed for adequate rates and reasonable profit.

(d) Insurance is essential to the health, safety, and prosperity of every Californian and to the growth of the state's economy.

(e) The insurance crisis has jeopardized our standard of living, damaged small and large businesses, drained precious resources from civic activities, charitable groups, and public services, and needlessly exposed all Californians to economic risks and uncertainties.

(f) Current law has left California consumers unprotected in their dealings with powerful insurance companies. The result has been excessive rates, unfair contracts, and predatory sales practices. Too often the victims have been the most vulnerable members of our society.

(g) Insurance rates are presently made by a process that is closed to the public, lacks accountability, and leaves consumers powerless.

(h) The insurance industry is unjustifiably exempt from antitrust laws. Insurers are free to fix prices, divide markets among themselves, and engage in a wide range of anticompetitive practices that are illegal in any other business.

(i) The widespread failure of insurance companies to

make insurance available at reasonable prices demonstrates the need to reform and modernize the system of insurance regulation in California and to open insurance markets to increased competition.

(j) Because insurance is essential to the people of California, it is necessary and proper that state government protect its citizens from unfair insurance rates and practices.

(k) It is appropriate that the cost of providing this protection to California consumers be borne completely by insurance companies and not by the general public in taxes.

(l) Automobile insurance fraud is a major contributor to automobile insurance costs. Law enforcement agencies have inadequate resources to investigate and prosecute suspected fraudulent claims effectively.

## SECTION 3. PURPOSES OF ACT

The people enact this act to accomplish the following purposes:

(a) To promote the principle of personal responsibility, to guarantee that automobile insurance rates primarily reflect the record of the insured, and to establish the right of good drivers to purchase automobile insurance in the open market at fair prices.

(b) To provide good drivers an immediate 20 percent roll-back of automobile insurance rates.

(c) To guarantee good drivers a 20 percent discount in automobile insurance.

(d) To open insurance markets to increased competition and thereby to provide an abundant supply of insurance products and services at reasonable, stable prices, and to provide consumers with the information necessary to take advantage of the competitive market.

(e) To create an open, public process of ratemaking that will restore accountability, integrity, and confidence in the state's ability to protect its citizens.

(f) To provide an effective advocate dedicated to the promotion and protection of consumer interests in order to balance the historic domination of the regulatory process by the insurance industry.



(g) To safeguard the integrity of the regulatory process by preventing conflicts of interest and providing an independent, impartial decisionmaker.

(h) To guarantee consumers the right to prompt and fair compensation for legitimate insurance claims and to deter unfair insurance practices.

(i) To open the books of insurance companies to vigorous public scrutiny of those aspects of their operations relevant to the public interest.

(j) To protect seniors from unscrupulous practices in the sale of health care insurance.

(k) To prevent unfair discrimination in pricing and availability of insurance.

(l) To provide sufficient resources to law enforcement for the vigorous investigation and prosecution of fraudulent automobile insurance claims.

**SECTION 4. FAIRNESS IN AUTOMOBILE INSURANCE**  
**Article 6 is added to Chapter 1 of Part 3 of Division 2 of the Insurance Code to read as follows:**

**Article 6**

**FAIRNESS IN PRIVATE PASSENGER  
AUTOMOBILE INSURANCE**

**11629.601 Scope.** The provisions of this article shall apply to any automobile liability policy, automobile physical damage policy, and automobile collision policy, as those terms are defined in Section 660, and any combination thereof, delivered or issued for delivery in this state insuring a single individual or individuals residing in the same household, as named insured, under which the insured vehicles therein designated are of the following types only:

(a) A motor vehicle of the private passenger or station wagon type that is not used as a public or livery conveyance for passengers nor rented to others;

(b) Any other four-wheel motor vehicle with a load capacity of 1,500 pounds or less which is not used in the occupation, profession, or business of the insured, provided, however, that this article shall not apply (i) to any policy issued under an automobile assigned risk plan, (ii) to any policy insuring more than four automobiles, or (iii) to any policy covering garage automobile sales agency, repair shop, service station, or parking place operation hazards; or

(c) A motorcycle.

**11629.602 Definitions.** As used in this article, the following definitions shall apply:

(1) "Automobile insurance rating plan" means the system of classification by which the rate for a given vehicle is determined.

(2) "Basic automobile insurance" means a policy providing motor vehicle liability insurance, as that term is defined in Section 16450 of the Vehicle Code, automobile physical damage insurance, and automobile collision insurance, or any combination thereof. The commissioner may, by regulation, prescribe provisions of basic automobile insurance policies to facilitate price-comparison.

(3) "Good driver" means any person who has held a valid operator's license for at least three years preceding the application for insurance and who:

(a) Has not had more than one traffic violation point count in the preceding three years and not had any accidents

in which he or she was principally at fault in the preceding three years;

(b) Has not been convicted of (1) fraud or attempt to defraud involving an automobile insurance policy, (2) driving under the influence of alcohol or drugs, (3) violation of Sections 20001, 20002, 20003, 23103, 23104, 23152, or 23153 of the Vehicle Code or for offenses of a substantially similar nature committed in California or in another jurisdiction, or (4) of theft of a motor vehicle; and

(c) Whose insured vehicle substantially complies with the requirements of Division 12 of the Vehicle Code (commencing with Section 24000).

**11629.603 Right of Good Drivers to Insurance.**

(a) Every insurer shall offer basic automobile insurance on any vehicle for which a good driver is the principal operator in any county in which the insurer accepts applications for automobile insurance.

(b) Every insurer shall file with the department, in such form and using such media as the commissioner may by regulation prescribe, its rates for basic automobile insurance. Such rates may vary according to classifications contained in an approved automobile insurance rating plan, but the insurer must provide a rate for every good driver in the county.

**11629.604 Rollback of rates.**

(a) Effective January 2, 1989, every insurer shall adjust its rates for good drivers for bodily injury, property damage liability, medical payment, and collision coverage such that those rates are at least 20 percent less than the amount charged for the comparable risks as of January 1, 1988.

(b) Any insurer may petition the Insurance Commissioner for partial or complete exemption from the provisions of subdivision (a) of this section on a showing, by clear and convincing evidence, that its overall rates for private passenger automobile insurance would be inadequate pursuant to the provisions of Section 1852 of the Insurance Code. No such petition shall be granted except after a public hearing complying with the provisions of Sections 1852.4, 1852.5, 1852.6, 1852.9, and 1852 of the Insurance Code.

**11629.605 Automobile insurance rating plans.**

(a) Every insurer shall file with the department its automobile insurance rating plan and every amendment thereto. The commissioner shall disapprove any automobile insurance rating plan inconsistent with this article.

(b) The commissioner shall not permit the use of any automobile insurance rating plan that discriminates on the basis of race, language, color, religion, ancestry, or national origin.

(c) The commissioner shall not permit the use of any automobile insurance rating plan that discriminates on the basis of geographic territories not justified, by clear and convincing evidence, to be valid a predictor of losses.

(d) Every automobile insurance rating plan shall, to the maximum extent practicable, provide that rates for any vehicle for which the principal operator has held an operator's license for at least three years, shall depend on driving record.

(e) Every automobile insurance rating plan shall provide at least a 20 percent discount for every good driver, when compared to a driver having similar characteristics but not

qualifying for the good driver rate.

**11629.606 Right to hearing on claims of discrimination.**

(a) Every person who claims to have been the victim of unfair discrimination in automobile insurance rates may petition the commissioner for a hearing on that claim. If the petition establishes a prima facie case of unfair discrimination, the commissioner shall conduct a hearing, to which Sections 1852.5, 1852.6, and 1852.9 shall apply. The insurer has the burden of proof in the hearing.

(b) The Commissioner shall, as a part of the filing requirements adopted pursuant to Section 1852.1, require the filing of a schedule for private passenger automobile insurance, showing:

(1) Current and historic pure-premium losses and loss adjustment expenses, on both a paid and an incurred basis, by territory and zip code; and

(2) The ratio of those losses and expenses to state-wide losses and expenses of the insurer, and the territorial rating factor for each territory.

**11629.607 Consumer assistance in shopping for automobile insurance.**

(a) The commissioner shall contract to establish a computerized system to store and retrieve price-comparison data on basic automobile insurance. The system shall be available no later than July 1, 1989.

(b) Upon determination of feasibility by the commissioner, which may be before or after July 1, 1989, the commissioner shall contract for the provision of computer terminals in publicly available locations throughout the state, which will provide price-comparison data to consumers on a walk-in basis for a reasonable fee.

(c) Every vehicle registration renewal notice shall contain a notice of the availability of price-comparison data and a form which the recipient may return to the Department of Insurance requesting comparative price quotations for basic automobile insurance on his or her vehicle. The form shall require sufficient information from the vehicle owner to establish the appropriate rate for the vehicle from the information filed by each insurer pursuant to subdivision (b) of Section 11629.603.

(d) Within fifteen days of receipt of a request for comparative price quotations, the Department of Insurance shall mail to the requestor a listing of relevant price-comparison data, containing information on no less than the six lowest-cost insurers (or fewer where less than six offer coverage for the requestor) including but not limited to:

(1) The name of each insurer;

(2) The rate charged for basic automobile insurance by that insurer;

(3) The address and telephone number where the requestor may apply for coverage.

The commissioner may include information on service quality and consumer satisfaction.

(e) The application for price comparison data shall be kept confidential. Upon completion of the request, the application shall be destroyed.

(f) The commissioner shall establish a fee schedule for (1) requests for price comparison data, which shall not exceed three dollars per vehicle, and (2) filings made pursu-

ant to subdivision (b) of Section 11629.603. 27D

**SECTION 5. REFORM OF THE ASSIGNED-RISK PLAN**  
Section 11624.2 is added to Article 4 of Chapter 1 of Part 3 of Division 2 of the Insurance Code, to read as follows:

11624.2 Any person may submit an application for coverage by the plan directly to the Department of Insurance or the Department of Motor Vehicles, which shall immediately forward the application to the organization operating the plan. The commissioner shall require that rates charged to such applicants shall not include any charge for commission in recognition of the fact that no agent is involved in the transaction.

**SECTION 6. INVESTIGATION AND PROSECUTION OF AUTOMOBILE-INSURANCE FRAUD**

Section 12998 is added to Article 5 of Chapter 2 of Division 3 of the Insurance Code to read:

12998. Each insurer shall pay an annual fee, to be determined by the commissioner but not to exceed 10 cents for each automobile liability policy, automobile physical damage policy, automobile collision policy, as those terms are defined in Section 660, and any combination thereof, delivered or issued for delivery in this state, for the purpose of funding increased investigation and prosecution of fraudulent automobile insurance claims. All moneys received by the commissioner pursuant to this section shall be transmitted to the State Treasury to the credit of the Automobile Insurance Fraud Investigation and Prosecution Account of the Insurance Commissioner's Regulatory Trust Fund, which account is hereby created. All moneys in such account are hereby continuously appropriated to the department and are to be used exclusively by the Bureau of Fraudulent Claims and authorized governmental agencies for the investigation and prosecution of fraudulent automobile insurance claims.

The commissioner shall by regulation adopt standards for the fair and equitable distribution of grants to authorized governmental agencies, as defined in Section 13003, to further the purposes of this section.

**SECTION 7. PUBLIC HEARINGS**

Chapter 3 of Division 3 of the Insurance Code is added to read as follows:

Chapter 3  
PUBLIC HEARINGS

13600. Notwithstanding any other provision of law, whenever the Commissioner is required to hold a hearing, the hearing shall be conducted in accordance with the following:

(a) Reasonable notice shall be given of the purpose and nature of the hearing and of the opportunity for public participation.

(b) Any person desiring to do so shall be provided a reasonable opportunity to present his or her views.

(c) An administrative record shall be compiled, containing all evidence upon which the decision is based, all admissible evidence offered by any party, all documents required by law to be filed with regard to the subject of the hearing, and all comments made by any person. Except as provided by Section 1852.9, the record shall be open to

examination by any person.

13601. Any hearing for the purpose of reviewing or adopting a rate, rating plan, rating system, underwriting rules, policy forms, or classification system shall be conducted as follows:

(a) Any insurer whose rates, rating plan, rating system, or underwriting rules are to be reviewed in the proceeding and the Insurance Consumer Advocate shall be deemed a party to the proceeding. Any person may petition to intervene in the proceeding. The petition shall be granted except where the commissioner determines that the position of the petitioner is already fully represented by another party and that intervention by the petitioner would be unduly burdensome. Upon the granting of the petition the petitioner shall be deemed a party to the proceeding.

(b) Any person wishing to comment on matters relevant to the hearing and not desiring to invoke the provisions of subdivision (c) of this section shall be permitted to make such comments, orally or in writing, upon such terms as the commissioner may prescribe for the orderly conduct of business, and need not file a petition to intervene or become a party.

(c) Any party shall have the right to engage in discovery, to call, examine, and cross-examine witnesses, to introduce exhibits, and to compel testimony and production of records by subpoena in accordance with the provisions of Section 11510, subdivisions (b) and (c), of the Government Code and Sections 1985, 1985.1, and 1985.2 of the Code of Civil Procedure, subject to the reasonable control of the commissioner. Oral evidence shall be only on oath or affirmation.

**SECTION 8. FAIR INSURANCE RATES**

Section 1850 of the Insurance Code is repealed. Section 1851 of the Insurance Code is amended to read as follows:

1851. **Scope.** The provisions of this chapter shall apply to all insurance on risks or on operations in this State, except:

- (a) Reinsurance, other than joint reinsurance to the extent stated in Article 5.
- (b) Life insurance.
- (c) Insurance of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance policies. Inland marine insurance shall be deemed to include insurance now or hereafter defined by statute, or by interpretation thereof, or if not so defined or interpreted, by ruling of the Commissioner or as established by general custom of the business, as inland marine insurance.
- (d) Title insurance.
- (e) Workers' compensation insurance and insurance of any liability of employers for injuries to, or death of, employees arising out of, and in the course of, employment when this insurance is incidental to, and written in connection with, the workers' compensation insurance issued to the same employer and covers the same employer interests.
- (f) Mortgage insurance.
- (g) Insurance transacted by county mutual fire insurers or county mutual fire reinsurers.

(h) Cooperative corporations whose members consist solely of physicians and surgeons, except as set forth in Article 1 of Chapter 3 (commencing with Section 1280.5) of this part.

Article 2 of Chapter 9 of Part 2 of Division 1 of the Insurance Code is repealed and added to read as follows:

Article 2

MAKING AND USE OF RATES

1852. **Standards in making and using rates.**

(a) No insurer shall charge a rate that is excessive, inadequate, or unfairly discriminatory.

(b) A rate is neither excessive nor inadequate if it gives the reasonably efficient insurer the opportunity to earn a net after-tax return on equity comparable to other businesses presenting a similar degree of risk.

1852.1. **Filings.**

(a) On or before January 2, 1989, every insurer or rating organization shall file with the commissioner the manual or plan of rates, classifications, rating schedule, policy fee, rating rule, and other similar information needed to determine the rate level then in effect for a line, subline, or class of insurance.

(b) Thereafter, filings shall be made whenever rates are changed, as follows:

(1) Filings that change rates but are certified by the insurer not to exceed the applicable prior approval band, as defined in Section 1852.2, shall be filed not later than the effective date of the change and may be used immediately, subject to the authority of the commissioner to order otherwise.

(2) Filings that change rates beyond the applicable prior approval band shall be filed no later than ninety days before the proposed effective date and shall not be used without the prior approval of the commissioner.

(c) Every filing shall be accompanied by sufficient supporting data to establish that the rates are not excessive, inadequate, or unfairly discriminatory. The supporting data shall include, but not be limited to, the following:

(1) Supporting actuarial data in sufficient detail to justify any rate level changes and statistically demonstrate the differences or corrections, or both, relevant to rating plan definitions and rate differences.

(2) An exhibit comparing the proposed rates to the previous rates stated in percentages. This exhibit shall show the date the preceding rates were submitted to the commissioner.

(3) A statement of all underwriting rules imposed by the insurer.

(d) The commissioner shall adopt regulations specifying how multiple classes of commercial insurance shall be aggregated into rate filings. Aggregation shall provide sufficient information for the commissioner to make the findings required in this chapter.

(e) For purposes of this article, a filing shall be deemed to have been made when received by the commissioner. If the commissioner determines that a filing is inadequately documented, the filing shall not be deemed to have been made until the commissioner receives such supplemental materials as he or she may order.

**1852.2 Prior approval bands.**

(a) The applicable bands in any 12-month period shall be:

- (1) Seven and one-half percent for personal lines.
- (2) Fifteen percent for any commercial line, sub-line, or class.

(b) For purposes of calculating rate changes, no adjustment to the prior approval bands may be made for any claimed subsidy of any state-mandated program such as the assigned-risk plan. However, in determining whether a filing meets the regulatory criteria, the commissioner may consider such claims of subsidy.

(c) For purposes of determining whether a rate change is within the applicable prior approval band, the effect of the rate change on the insurer's statewide or territorial written premiums shall determine the percentage rate change.

**1852.3 Decision whether to hold a hearing on the filing.**

(a) The commissioner shall publish a weekly list of all filings, which shall identify the filing insurer, the lines, sublines, or classes affected, the percentage change in rates, whether the insurer has certified that the filing is within the applicable prior approval band, and other pertinent information. The list shall be provided by mail to any person who has, in the preceding twelve months, requested in writing receipt of the publication and paid any reasonable fee established by the commissioner.

(b) Upon receipt of a filing, the commissioner shall create a public record containing all information contained in the filing.

(c) Within twenty-five days from the date of publication of the weekly list required in subdivision (a) of this section containing notice of the filing, any person may petition the commissioner to hold a hearing on the filing. The petitions received shall become part of the public record of the filing. Failure to file a petition shall not preclude any person from participating in any hearing if one is ordered. The petition shall be granted if it meets any of the following:

- (1) If the filing is outside the applicable prior approval band and the petition raises non-frivolous claims that the rates would be excessive, inadequate, or unfairly discriminatory.
- (2) If the filing is within the applicable prior approval band and the petition contains competent evidence that the rates would be excessive, inadequate, or unfairly discriminatory.

(d) The commissioner shall, notwithstanding the absence of a petition, hold a hearing on any filing outside the applicable prior approval band to determine whether the rates set forth in the filing are excessive, inadequate, or unfairly discriminatory, if any of the following criteria are met:

- (1) It appears that insureds covered by the filing will be among the ten percent of the market paying the highest premiums.
- (2) The filing covers two percent or more of a market. For purposes of this calculation, filings of affiliated companies are deemed to have the market share of the entire group of affiliated companies.
- (e) The commissioner may hold a hearing at any other time, before or after the filing becomes effective, when it

appears to him or her that the rates specified in the filing are excessive, inadequate, or unfairly discriminatory.

(f) Within ninety days of a filing outside the applicable prior approval band, the commissioner shall issue a decision either approving or disapproving a filing or ordering a hearing on the filing. A decision to approve or disapprove a filing outside the applicable prior approval band shall be in writing and shall contain the findings required by section 1852.4. A decision to hold a hearing, and a decision denying a petition for a hearing, shall be in writing and shall state the reasons therefor.

**1852.4 Decision.**

(a) The commissioner shall issue a written decision, based on the evidence of record, approving or disapproving, in whole or in part, any filing outside the applicable prior approval band and any filing on which a hearing is held. No portion of a filing shall be approved unless its rates are neither excessive, inadequate, nor unfairly discriminatory.

(b) In determining whether rates are excessive, inadequate, or unfairly discriminatory, the commissioner shall make findings on each of the following:

- (1) The estimated premium volume, acquisition costs, administrative expenses, losses, loss-adjustment expenses, investment returns (including long-term capital gains), and taxes.
- (2) Historical losses per exposure and the basis for any deviation of the estimated future losses from past experience.
- (3) The extent of competition in the line, subline, or class of insurance in each affected territory, the ability of consumers to shop competing insurers effectively, and the extent to which competition in the line, subline, or class of insurance can be expected to maintain fair rates.
- (4) The relative efficiency of the insurer when compared to other insurers, including the insurer's use of cost-control programs.
- (5) The quality of service, based on all evidence before the commissioner including but not limited to complaints to the department.
- (6) The extent to which the rating system provides adequate incentives for insureds to minimize risks.
- (7) The extent to which the insurer assists its insureds in risk reduction.
- (8) The fairness of any underwriting policy of the insurer placed in issue by any party.
- (9) The need for, and expected availability of, reinsurance.

(c) For filings outside the applicable prior approval bands, the burden of establishing that rates are not excessive, inadequate, or unfairly discriminatory shall rest with the filing insurer. For filings within the applicable prior approval bands, the burden of establishing that rates are excessive, inadequate, or unfairly discriminatory shall rest with the party challenging the rates.

(d) The commissioner's decision may order such adjustment in rates as may be necessary to prevent the rates from being excessive, inadequate, or unfairly discriminatory and may require refund of any premiums collected pursuant to an excessive or unfairly discriminatory rate.

(e) Except as extended for good cause, the decision

shall issue within 90 days of the order to hold a hearing.

**1852.5 Judicial review.**

(a) Notwithstanding the provisions of section 1858.6, judicial review of a commissioner's decision pursuant to this article, or of a decision not to hold a hearing pursuant to this article, may be had by petition for a writ of mandate pursuant to Section 1094.5 of the Code of Civil Procedure.

(b) A decision of the commissioner to hold a hearing is not a final administrative decision and shall not be subject to judicial review.

**1852.6 Intervenor funding.** Any natural person, or any nonprofit organization other than a nonprofit organization whose principal purpose is to serve the interests of for-profit businesses, may, if they have participated in any proceeding conducted pursuant to this article, apply for reimbursement of reasonable advocate's fees, expert witness fees, and other reasonable expenses of such participation. Applications shall be made to the commissioner for reimbursement of the expenses of administrative proceedings and to the court for reimbursement of the expenses of judicial review. Awards shall be made after conclusion of the proceeding and shall be based on the reasonable cost of the services and the party's contribution to the decision. Awards shall be made only where the financial burden of private enforcement makes the award appropriate. If the person has made a substantial contribution to the proceeding, reimbursement shall be ordered. Reimbursement shall be paid by the insurer. If the commissioner finds that any person has abused the processes established by this act for personal gain or advantage, the commissioner may bar such person from appearing in any proceeding conducted pursuant to this article for a term not to exceed three years.

**1852.7 Exemptions.**

(a) This article shall not apply to any policy for which the annual premium exceeds \$500,000.

(b) The commissioner may adopt regulations exempting specified classes from the requirements of this article. No exemption shall be granted unless the commissioner finds:

(1) The class has exhibited relative price stability in recent years.

(2) There is sufficient competition in the market, and consumers have demonstrated widespread ability to shop freely among competitors, to support a finding that competition would prevent the maintenance of excessive rates.

(3) The market does not have a history of excessive or inadequate prices.

(4) The exemption will not contribute to problems of unavailability, unaffordability, or reduced coverage.

(c) No exemption shall be granted for private-passenger automobile insurance.

(d) Exemptions shall expire no more than three years after their adoption. They may be renewed by adoption of an appropriate regulation.

**1852.8 Rating plans.**

(a) An insurer shall adhere to a filing unless changed by a subsequent filing.

(b) The commissioner shall by regulation adopt standards for rating plans (including experience rating plans, schedule rating plans, individual risk premium modification plans, and expense reduction plans) designed to modify

rates in the development of premiums for individual risks. Such standards shall permit recognition of expected differences in loss or experience characteristics, and shall be designed so such plans are reasonable and equitable in their application, are not unfairly discriminatory, violative of public policy, or otherwise contrary to the public interest. Such standards shall not prevent the development of new or innovative rating methods which otherwise comply with this article. Such rating plans shall be filed in accordance with the regulations adopted by the commissioner. The regulation shall establish maximum debits and credits that may result from application of a rating plan, shall encourage loss control, safety programs, and other methods of risk management, and shall require insurers to maintain documentation of the basis for the debits or credits applied under any plan. Once it has been filed and approved, use of the rating plan shall be mandatory and such plan shall be applied uniformly for eligible risks in a manner that is not unfairly discriminatory.

**1852.9 Trade secrets.** Any person seeking confidential treatment of information submitted pursuant to this article shall so designate that information and shall state the grounds upon which confidentiality is sought. Information shall not be treated as confidential unless the claimant proves that its disclosure is likely to cause significant competitive injury and that such harm outweighs the value of disclosure to the public. The person seeking confidentiality shall have the burden of making such a showing. A party, other than another insurer, shall have access to the confidential information under appropriate protective order. The commissioner shall adopt regulations providing guidelines for identifying confidential information.

**1852.91 Transitional provisions.** For purposes of computing the applicable prior approval band, no rate in effect prior to January 2, 1989, shall be considered. The commissioner, upon the motion of any person or on his or her own motion, may review any rate change made between January 1, 1988, and January 2, 1989, to determine whether the rate meets the requirements of Section 1852. A showing that an insurer has increased rates between January 1, 1988, and January 2, 1989, more than the increase in the California consumer price index shall be prima facie evidence that the rate charged on January 2, 1989, is excessive.

**1853. Rating and advisory filings.**

(a) A licensed rating or advisory organization may file historic loss cost data, which any member insurer may incorporate in the supporting documentation of its rate filing. The rating or advisory organization may not specify a fully developed advisory rate, may not provide trending or specify prospective loss costs, and may not provide historic or prospective expenses, profit, or contingencies.

(b) The commissioner may, after a public hearing, exempt from the requirements of this article for a period not beyond December 31, 1990, any insurer having nationwide gross premiums of less than five million dollars (\$5,000,000.00), if the commissioner finds that there does not exist an available source of actuarial services sufficient to enable such insurers to meet the requirements of this article. This exemption may be extended to December

31, 1991, upon a finding by the commissioner, after a public hearing, that such capacity remains unavailable.

## **SECTION 9. CONSUMER ADVOCACY**

**Article 9 is added to Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code to read as follows:**

### **Article 9**

#### **OFFICE OF THE INSURANCE**

#### **CONSUMER ADVOCATE**

12620. There is hereby created in the Department of Justice the Office of the Insurance Consumer Advocate.

12621. The Attorney General shall appoint the Insurance Consumer Advocate, who shall report directly to the Attorney General, who shall serve at the pleasure of the Attorney General.

12622. The Office of Insurance Consumer Advocate shall employ personnel sufficient to perform its duties.

12623. The Insurance Consumer Advocate may intervene as a matter of right in any judicial or administrative proceeding in which matters relating to insurance are involved.

12624. The Insurance Commissioner shall fully cooperate with the Insurance Consumer Advocate in any proceeding in which he or she appears before the commissioner and any proceeding to which they are both parties. The cooperation shall include providing complete access to all records in the possession of the Department of Insurance.

12625. The provisions of this article are not exclusive, and the remedies provided in this article shall be in addition to any other remedies provided in any other law or available under the common law.

12626. Every rate filing and every petition filed pursuant to Article 2 (commencing with Section 1852) of Chapter 9 of Part 2 of Division 1 of the Insurance Code shall be simultaneously served on the Insurance Consumer Advocate.

12627. Sections 11042 and 11043 of the Government Code shall not apply to the Department of Insurance with respect to any proceeding to which the Insurance Consumer Advocate is a party.

## **SECTION 10. PUBLIC DISCLOSURE OF INSURER OPERATIONS**

**Section 926 is added to Article 10 of Chapter 1 of Part 2 of Division 1 of the Insurance Code, to read as follows:**

926. At least annually, every insurer shall file with the department the following information:

(a) Every form of policy, endorsement, and rider.

(b) The following information for each line and subline of insurance, and for each class designated by the commissioner, for each of the prior five years:

(1) Premiums written and earned.

(2) Losses incurred, paid, and unpaid, including losses incurred but not reported separately stated.

(3) Reserves, and indication whether the reserves are discounted to present value.

(4) Expenses incurred and paid.

(5) Investment income, including realized and unrealized capital gains.

(6) The number and type of policies issued, renewed, cancelled, and not renewed, and the number of new

policies.

(7) California and nationwide rate level information providing the following:

(A) The number of exposures.

(B) The number of claims.

(C) Commissions, general expenses, taxes, licenses and fees, and acquisition expenses.

(8) Comparisons of the following:

(A) Loss ratios for agents cancelled and for all agents for the most recent year.

(B) Loss ratios for insureds cancelled or not renewed and for all insureds for the most recent year of the experience period used for ratemaking.

(C) The average deductible for the most recent year of the experience period used for ratemaking with the average deductible for the most recent sample year available.

(9) Schedule of commissions.

(10) Any changes implemented to reduce or contain expenses.

(11) Expenditures for

(A) Trade association memberships.

(B) Lobbying.

(C) Political contributions.

**Subdivision (d)(1) of Section 6254 of the Government Code is amended to read:**

(1) Applications filed with any state agency responsible for the regulation or supervision of the issuance of securities or of financial institutions, including, but not limited to, banks, savings and loan associations, industrial loan companies, and credit unions.

## **SECTION 11. FAIR COMPETITION**

**Sections 750, 750.1, 751, 752, 754, 755, 755.7, 761, and 1643 of the Insurance Code are repealed.**

**Section 16704 of the Business and Professions Code is added to read as follows:**

16704. Notwithstanding any other provision of law, this chapter applies to the business of insurance. Nothing in this act shall prohibit insurers or licensed rating or advisory organizations from engaging in joint activity to pool historic loss data. Nothing in this act shall prohibit insurers from engaging in any joint activity permissible under Chapter 9 (commencing with Section 10090) of Part 2 of Division 2 of the Insurance Code, Article 4 (commencing with Section 11620) of Chapter 1 of Part 3 of Division 2 of the Insurance Code, or any other joint underwriting association or organization established by law.

**Section 780 is added to Chapter 6 of Division 1 of the Financial Code, to read as follows:**

780. No bank licensed as an insurance agent or broker, or which owns or controls an insurance agency or broker, nor any director, officer, agent, employee or affiliate of any such bank, shall require, as a condition precedent to financing the purchase of real or personal property or to lending money upon the security of real or personal property, or as a condition prerequisite for the renewal of any such loan or for the performance of any other act in connection therewith, that the person for whom the purchase is to be financed or

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to whom the money is to be loaned or for whom the extension, renewal or other act is to be granted or performed negotiate any insurance or renewal thereof through a particular insurance agent or broker. The provisions of Section 771 of the Insurance Code shall also be applicable to this section.

**Section 781 is added to Chapter 6 of Division 1 of the Financial Code, to read:**

781. (a) The total investment by a bank, which has obtained a certificate of authority to transact any class of insurance business in this state pursuant to Part 2 (commencing with Section 680) of the Insurance Code, into its insurance underwriting activities may not exceed 10 percent of the capital stock and surplus of the bank.

(b) A bank may make a loan or extend credit to, or purchase or invest in securities of, or issue a guarantee, acceptance or letter of credit, including an endorsement or standby letter of credit, on behalf of, an insurer which is an affiliate of the bank only if (1) the aggregate amount of all such transactions between the bank and that insurer will not exceed 10 percent of the capital stock and surplus of the bank, and (2) the transaction is on terms and conditions that are consistent with safe and sound banking practices. Each such loan, extension of credit, guarantee, acceptance or letter of credit must be secured at the time of the transaction by collateral having a market value equal to at least 100 percent of the amount of the loan, extension of credit, guarantee, acceptance or letter of credit.

(c) As used in this section, "affiliate" has the meaning set forth in Section 150 of the Corporations Code, and "insurer" has the meaning set forth in Section 23 of the Insurance Code.

**Section 772 of the Financial Code is repealed and reenacted, to read as follows:**

772. Notwithstanding the provisions of Section 1335, and subject to such regulations and rules as the superintendent may prescribe, a bank may invest in the capital stock, obligations, or other securities of one or more corporations.

**SECTION 12. TRUTH AND FAIRNESS IN POLICY FORMS**

**Section 381.5 is added to the Insurance Code to read as follows:**

381.5 The commissioner may examine policy forms used by insurers and may prohibit the use of any form he or she finds to be deceptive, misleading, or contrary to the public interest.

**SECTION 13. FAIR INSURANCE CLAIMS AND UNDERWRITING PRACTICES**

**Section 790.031 is added to Article 6.5 of Chapter 1 of Part 2 of Division 1 of the Insurance Code to read as follows:**

790.031 Any person engaged in the business of insurance in the State of California is required to act in good faith toward, and to deal fairly with, current and prospective policyholders and other persons intended to be protected by any policy of insurance. A policyholder or a third-party may bring an action against an insurer or licensee for violation of the provisions of this article, including but not limited to

subdivision (h) of Section 790.03.

In accordance with the Unruh Civil Rights Act, Civil Code section 51, an insurer shall not arbitrarily discriminate against individuals in the setting of insurance rates or in the denial of insurance coverage.

The purpose of this article is to regulate unfair insurance practices, including unfair claims practices, by providing state-court remedies, including compensatory and exemplary damages, to policyholders and claimants who are victims of unfair insurance practices. It is specifically intended that these remedies be construed to regulate the business of insurance regardless of whether the policy was purchased individually or as a member of a group, and regardless of whether or not the policy was purchased or provided by or through an employer, and thereby to provide that state-law remedies are available notwithstanding the provisions of the Employee Retirement and Income Security Act, 29 U.S.C. section 1001 et seq.

Any award of punitive damages against an insurer shall not be passed on to policyholders directly or indirectly.

**SECTION 14. PROHIBITION OF CONFLICTS OF INTEREST**

**Section 12907 is added to Chapter 1 of Division 3 of Part 6 of the Insurance Code to read as follows:**

12907. It is unlawful for any person who has served as Insurance Commissioner or as Insurance Consumer Advocate to accept any employment with, to accept any compensation from, to undertake representation of, or to hold a material financial interest in any insurance company, insurance trade association, or licensee of the Department of Insurance for a period of twelve months after leaving office.

**SECTION 15. RESPONSIBILITY FOR AUTOMOBILE ACCIDENTS**

**Section 3333.6 is added to the Civil Code to read:**

3333.6 It is the will of the People that persons who wrongfully cause damages to others in the ownership or operation of a motor vehicle should be held legally responsible for the full extent of the injuries they cause. It is the intent of the People that the provisions of this act be construed to be in conflict with the provisions of any other initiative statute passed at the same election dealing with compensation for motor vehicle accidents. Accordingly, it is the will of the People that any other provision of any other measure passed at the same election as this act and dealing with compensation for motor vehicle accidents, shall be of no force or effect unless the other measure receives a higher number of affirmative votes.

**SECTION 16. SENIORS HEALTH-CARE INSURANCE PROTECTION**

**Article 6 is added to Chapter 1 of Part 2 of Division 2 of the Insurance Code, to read as follows:**

10198. There is in the Department of Insurance a Seniors Bureau of Investigation. The bureau shall be organized and operated exclusively for the purpose of administering and enforcing the provisions of this article and other provisions of law relating to seniors health-care insurance policies. The bureau shall take all actions necessary to fully and faithfully

implement the provisions of this article, including but not limited to the following:

- (a) Receiving complaints from seniors.
- (b) Investigating insurers, brokers, agents, and others engaged in the business of insurance.
- (c) Vigorously pursuing enforcement and disciplinary actions against insurers, brokers, agents, and others engaged in the business of insurance.
- (d) Informing and educating seniors about their legal rights as consumers of seniors health-care insurance policies.
- (e) Auditing insurers, brokers, agents, and others engaged in the business of insurance for compliance with legal requirements.

- (f) Evaluating policy forms and premium levels.
- (g) Recommending legislation and regulations to reduce the incidence of unfair and deceptive practices against seniors with regard to health insurance.

The commissioner shall include within his or her annual report to the Governor a summary of the actions and accomplishments under this article.

10198.01 For purposes of this article, "seniors health-care insurance policies" includes the following types of policies sold to seniors eligible for Medicare by reason of age:

- (a) A policy to supplement Medicare.
- (b) A dread-disease policy.
- (c) A hospital indemnity policy.
- (d) A major-medical or surgical policy.
- (e) Skilled nursing home policies and long-term custodial or home health-care policy.
- (f) Other, similar policies.

10198.02 All policyholders and prospective policyholders of seniors health-care insurance policies are entitled to all of the following:

- (a) The right to truthful and honest advertising.
- (b) The right to a fair return on their money.
- (c) The right to fair sales practices.
- (d) The right to a readable policy.
- (e) The right to shop effectively in a competitive market for insurance.
- (f) The right to prompt and fair claims procedures and settlement practices.
- (g) The right to prompt redress of complaints.
- (h) The right to swift and meaningful enforcement of the law.

10198.03 An insurer, broker, agent, and other person engaged in the business of insurance shall not knowingly recommend for sale, or sell, an insurance policy to supplement Medicare insurance directly to a Medi-Cal beneficiary. Upon sale of any insurance policy to supplement Medicare, the policyholder shall sign and date a statement verifying that they are not eligible for, nor do they receive, Medi-Cal benefits. Verification shall be required on the insurance policy enrollment or application form.

10198.04 With regard to the provisions of this article, all insurers, brokers, agents, and others engaged in the business of insurance owe a policyholder or prospective policyholder of a seniors health-care insurance policy a duty of honesty, good-faith, and fair dealing. This duty is in addition

to any other duty, whether express or implied, that may exist.

10198.05 (a) No insurer, agent, broker, or other person engaged in the business of insurance or any other person or entity shall develop or use a list of names, addresses, or phone numbers compiled in a manner that has the capacity or tendency to deceive or mislead the policyholder or potential policyholder for the purpose of selling or otherwise transferring seniors health-care insurance policies.

(b) No insurer, agent, broker, or other person engaged in the business of insurance or any other person or entity shall represent themselves as a government agency, non-profit or charitable institution, or seniors organization, or representative thereof, to any policyholder or prospective policyholder of a seniors health-care insurance policy in a manner that may have the capacity or tendency to deceive or mislead the policyholder or prospective policyholder.

10198.06 No insurer, agent, broker, or other person engaged in the business of insurance shall cause a policyholder to replace a seniors health-care insurance policy unnecessarily. It shall be presumed that any third, or greater, policy sold to a policyholder in any twelve-month period is unnecessary within the meaning of this section.

10198.07 No insurer shall pay or offer to pay, and no agent or broker shall accept, compensation for the sale of any seniors health-care insurance policy which varies by more than ten percent of the annual premium between the initial compensation paid or received for the first year the policy is in force and any renewal compensation paid or received in any subsequent year. This section applies even if renewal compensation is not offered or paid.

10198.08 (a) Annually insurers shall submit to the commissioner their loss ratio for each policy form of seniors health-care insurance, based on experience of all policies issued or in force in this state during the preceding calendar year. The submissions of each insurer shall be public documents. The commissioner shall provide the Legislature and the Governor with a summary of said submissions.

(b) After January 1, 1990, no seniors health-care insurance policy shall be sold in this state unless the policy's outline of coverage, as described in Section 10195, prominently and conspicuously displays that policy's loss ratio for the insurer, as reported to the commissioner.

(c) Seniors health-care insurance policies shall have a minimum loss ratio of 65 percent for individual policies and 75 percent for group policies.

(d) It shall be an unfair insurance practice to report incurred losses that are not supported by a good-faith belief that losses in the reported amount will be paid within a reasonable time not to exceed five years.

10198.09 (a) As prescribed in this section, the commissioner shall have the authority to assess administrative penalties against insurers, agents, brokers, and others engaged in the business of insurance or any other person or entity for violations of this article.

(b) Whenever the commissioner reasonably believes that any insurer, agent, broker, or other person engaged in the business of insurance or any other person or entity has violated this article, he or she shall make and serve upon the insurer, agent, broker, or other person engaged in the



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business of insurance or any other person or entity, a notice of hearing. The notice shall state the commissioner's intent to assess administrative penalties, the time and place of the hearing and the conduct, condition, or ground upon which the commissioner is holding such hearing and proposing the assessment of penalties. The hearing shall be held within 30 days after such notice is served. Within 30 days after the conclusion of the hearing, the commissioner shall issue an order specifying the amount of penalties to be paid, if any. Penalties shall be paid into the state insurance fund.

(c) Any broker, agent, or other person engaged in the business of insurance, other than an insurer, or any other person or entity, who violates the provisions of this article is liable for administrative penalties of no less than one thousand dollars (\$1,000) and no more than twenty-five thousand dollars (\$25,000) for each violation.

(d) Any insurer which violates the provisions of this article is liable for administrative penalties of no less than ten thousand dollars (\$10,000) and no more than one hundred thousand dollars (\$100,000) for each violation.

(e) The powers vested in the commissioner by this section shall be in addition to any and all other powers and remedies vested in the commissioner by law.

10198.10 Actions for injunctive relief, compensatory damages, punitive damages, restitution, penalties, or any other remedy provided in law or equity may be brought in superior court by the Attorney General, a district attorney, or a city attorney on behalf of the people of the State of California, or by any person against any person violating, or threatening to violate, this article. The court shall award reasonable attorneys fees for successful prosecution of such actions.

10198.11 Any person who intentionally violates any provision of this article is guilty of a public offense punishable by imprisonment in the county jail not exceeding one year or by imprisonment in the state prison.

10198.12 The requirements and remedies provided by this article are in addition to any other requirements and remedies provided by law.

**SECTION 17. REGULATION OF ATTORNEYS' FEES**  
Section 6146.6 of the Business and Professions Code is added, to read as follows:

6146.6 In addition to any other obligation imposed upon attorneys by law, attorneys shall advise prospective clients in writing that fees are not set by law, but are negotiable without restriction between attorney and client. Fees shall not be set by law. The existing right of clients to negotiate fees without restriction and to receive written fee agreements is hereby ratified.

When fees are based on the amount recovered, the contract shall specifically state whether the calculation is based on recovery before or after deduction of costs and expenses.

The provisions of this section do not apply to any matter for which attorneys' fees are set by statute existing on January 1, 1988.

**SECTION 18. APPROPRIATIONS AND ASSESSMENTS**  
Article 8 is added to Chapter 2 of Division 3 of the

**Insurance Code to read as follows:**

13700. The moneys appropriated pursuant to this act shall be funded entirely by fees assessed by the commissioner as follows:

(a) The commissioner shall establish a schedule of fees for filings made pursuant to section 1852.1 that will produce revenues sufficient to carry out the provisions of Sections 4, 8, and 9 of this act.

(b) For each year commencing with the 1989-90 fiscal year, the commissioner shall establish a schedule of fees for filings made pursuant to section 10198.08 that will produce revenues sufficient to carry out the provisions of Section 16 of this act.

(c) The commissioner shall establish a schedule of modest fees for use of the consumer information program created by Section 11629.606. Said fees shall be deposited in the Insurance Fund.

13701. (a) For fiscal year 1988-89, there is hereby appropriated from the Insurance Fund, for the purpose of carrying out this act, the following amounts, which shall be in addition to amounts otherwise appropriated:

(1) To the Department of Insurance, the sum of eight million dollars (\$8,000,000.00).

(2) To the Department of Justice, the sum of two million dollars (\$2,000,000.00).

(b) It is the will of the People that, for fiscal year 1989-90 and each year thereafter, the Legislature appropriate from the Insurance Fund an amount sufficient to fund adequately the activities of state government specified in this act.

**SECTION 19. AMENDMENT**

(a) Except as provided in subdivision (b) of this section, this act may be amended or repealed only by one of the following two procedures:

(1) This act may be amended to further its purposes by statute passed in each house by roll-call vote entered in the journal, two-thirds of the membership concurring, and signed by the Governor, if at least twelve days prior to passage in each house the bill is in its final form.

(2) This act may be amended or repealed by a statute that becomes effective when approved by the electors.

(b) Notwithstanding the provisions of subdivision (a) of this section, Sections 15 and 17 of this act may be amended or repealed by statute approved by the electors after the effective date of this act or by subsequent statute passed by the Legislature and signed by the Governor as otherwise provided by law.

**SECTION 20. SEVERABILITY**

If any provision of this act, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this act, to the extent it can be given effect, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this end the provisions of this act are severable.

**SECTION 21. LIBERAL CONSTRUCTION**

This act shall be liberally construed and applied to promote its underlying purposes.