

AMENDED IN SENATE APRIL 24, 2000

SENATE BILL

No. 2156

Introduced by Senator Johnston

February 25, 2000

An act to amend ~~Section 1860~~ Sections 4013 and 4022 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 2156, as amended, Johnston. ~~Insurers; rebates—Mutual insurers.~~

Existing law makes each policyholder of a mutual insurer a member during the period of insurance, and requires each director of a mutual insurer to be a policyholder of the insurer.

This bill would specify that the time period of a tail or extended reporting policy or endorsement issued to permit the reporting of claims after the policy period of a claims made policy is not part of the period of insurance for purposes of defining membership. This bill would declare that this provision is declaratory of existing law and does not affect any existing contractual rights.

This bill would also require that only a majority of directors of a mutual insurer be policyholders of the insurer.

~~Existing law provides for regulation of insurers by the Insurance Commissioner. Existing law, pursuant to Proposition 103, generally provides that no insurance rate shall be approved or remain in effect that is excessive, inadequate, unfairly discriminatory, or otherwise in violation of applicable laws. Existing law, pursuant to Proposition 103, requires an insurer that desires to change an insurance rate to~~

~~file a rate application with the commissioner, and provides an opportunity for a public hearing, as specified, on a rate application, including a rating plan or system. However, existing law does not prohibit the payment of dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers, and provides that a plan for those payments shall not be deemed a rating plan or system.~~

~~This bill would provide that an insurer plan for the payment of rebates to their policyholders, members, or subscribers shall also not be deemed a rating plan or system under these provisions. By authorizing premium rebates, this bill would amend the rate approval process enacted by Proposition 103.~~

~~Because this bill would amend Proposition 103, it is required to further the purposes of Proposition 103 and it would require a $\frac{2}{3}$ vote for passage.~~

~~Vote: $\frac{2}{3}$ —majority. Appropriation: no. Fiscal committee: yes no. State-mandated local program: no.~~

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 1860 of the Insurance Code is~~
2 ~~amended to read:~~

3 ~~1860. Nothing in this chapter shall be construed to~~
4 ~~prohibit or regulate the payment of dividends, rebates,~~
5 ~~savings, or unabsorbed premium deposits allowed or~~
6 ~~returned by insurers to their policyholders, members or~~
7 ~~subscribers. A plan for the payment of dividends, rebates,~~
8 ~~savings, or unabsorbed premium deposits allowed or~~
9 ~~returned by insurers to their policyholders, members or~~
10 ~~subscribers shall not be deemed a rating plan or system.~~

11
12 *SECTION 1. Section 4013 of the Insurance Code is*
13 *amended to read:*

14 4013. (a) Each policyholder of a domestic mutual
15 insurer, other than the holder of a reinsurance contract,
16 is a member of the insurer during the ~~period of insurance~~
17 *policy period, as defined in the policy or the declarations*
18 *page of the policy, with all rights and obligations of—such*
19 *that membership, and the policy shall so specify.*



1 (b) A “tail” or extended reporting policy or
2 endorsement permitting claims to be reported after the
3 expiration or termination of the policy period (“extended
4 reporting period”) shall not extend the policy period of
5 a “claims made” policy and all rights and obligations of
6 membership shall cease upon the expiration or
7 termination of the policy period. If an insurer has allowed
8 or does allow, by contract, conduct, or otherwise, the
9 holder of a “tail” or extended reporting policy or
10 endorsement to have privileges, in whole or in part,
11 identical, or similar to some or all of the rights of
12 membership, the holder is nevertheless not deemed a
13 member.

14 (c) Subdivision (b) and the modifications to
15 subdivision (a) made by the act adding this subdivision,
16 are declaratory of existing law and do not affect any
17 existing contract rights.

18 SEC. 2. Section 4022 of the Insurance Code is
19 amended to read:

20 4022. A ~~director~~ majority of the directors of a mutual
21 insurer shall be a ~~policyholder~~ policyholders thereof.

