

**STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
300 Capitol Mall, 17th Floor
Sacramento, CA 95814**

TITLE 10. INVESTMENT
CHAPTER 5. INSURANCE COMMISSIONER
SUBCHAPTER 4.8. REVIEW OF RATES
ARTICLE 6. PROCEDURES FOR DETERMINATION OF RATES

TEXT OF REGULATION¹

DATE: October 16, 2009

REGULATION FILE: REG-2009-00006

§ 2646.6. Commissioner's Report on Underserved Communities

Definitions

For the purpose of these regulations, the following terms are construed as defined herein:

"Insurer" means those carriers admitted to transact the business of insurance in California and the California Fair Access to Insurance Requirements (FAIR) Plan.

"Underserved Community" means those communities which the Commissioner has determined are underserved as set forth in the "Commissioner's Report on Underserved Communities".

(a) Each insurer writing in any one of the lines of insurance set forth in Section 2646.6(b)(1)(A) through (D) below, with the exception of umbrella, excess or reinsurance coverages, shall compile and maintain by experience year, the information required by this section for that line of business, and shall file ~~each insurer writing the coverages listed in (b)(1) below~~ shall file a Community Service Statement with the Department of Insurance's Statistical Analysis Division ~~Bureau~~ in Los Angeles, on or before ~~April 1~~ March 1 of every *odd numbered* year. The Community Service Statement shall contain a verification of an executive officer of the insurer, under penalty of perjury under the laws of the State of California, that the information contained therein is true and correct.

(b) Such information shall be compiled and maintained in a manner which will allow the insurer to report the information to the Commissioner for each Zone Identification Program ("ZIP") code in every county in California in which the insurer sells insurance or maintains agents:

(1) Premium Written & Earned; Exposure Written & Earned;

(A) private passenger automobile liability (including policies issued through the California Automobile Assigned Risk Plan);

(B) homeowners multiple peril (including policies submitted to, and/or gathered by the California FAIR Plan);

(C) commercial multiple peril, by ZIP code for the location of individual risks;

¹ Proposed additions to the existing text of this regulation appear in underlined italicized text. Proposed deletions to the text of this regulation appear in ~~strikeout text~~.

(D) fire (commercial and personal lines fire coverages should be maintained and compiled in such a manner as to allow them to be reported separately) including policies submitted to, and/or gathered by the California FAIR Plan;

(2) the Community Service Statement shall contain the number of service offices maintained in the ZIP code during the reporting period; (For purposes of this section, "service" means claims service, and sales service. Where more than one service is performed at an office, the insurer shall categorize the office based upon the service or services provided at that office.

(3) the number of independent, employed or captive agents or agencies in the ZIP code during the reporting period;

To be counted for purposes of this section, an office must be open to the general public no fewer than 37.5 hours per week at least 50 weeks per year. A new office opened at any time during the reporting period shall be counted if it has been open at least 60 consecutive business days during the reporting period. An office closed at any time during the reporting period shall be counted unless it has been closed for more than 60 consecutive business days during the reporting period.

(4) for an insurer distributing through direct solicitation, the number of direct mail and telephone solicitations for new insurance business made during the reporting period to addresses in the ZIP code;

(5) the number of agents *or agencies* maintaining offices in the ZIP code during the reporting period ~~who~~ *that are* identified themselves as *being* conversant in a language other than English, *or as having agents conversant in languages other than English, listed by language as specified below*; as specified by the listed languages below:

(1 *a*) Spanish

(2 *b*) Chinese

(3 *c*) Japanese

(4 *d*) Filipino

(5 *e*) Korean

(6 *f*) Vietnamese

(7 *g*) Other Language Not Listed

~~(7) Other than English (includes those above and those not listed)~~

~~(6)~~ ~~(5)~~ the race or national origin, and gender, of each new policyholder (including new co-policyholder) who is a natural person, as provided by the policyholder on a separate, detachable form that refers to the application. The form shall state that this information is requested by the State of California in order to monitor the insurer's compliance with the law, that the policyholder is not required to provide this information but is encouraged to do so, and that the insurer may not use this information for underwriting or rating purposes. The Department's form is available on the Department's website. No such information shall be used for purposes of underwriting or rating any applicant.

For purposes of this section, race or national origin means one of the following:

- (A) American Indian or Alaskan Native
- (B) Asian or Pacific Islander
- (C) African-American
- (D) Latino
- (E) White
- (F) Other
- (G) Information not provided by policyholder.

(c) The Community Service Statement shall be subject to California *Insurance Code section 1861.07*. ~~and the Commissioner shall, every year as soon as the information is available, issue the Commissioner's Report on Underserved Communities~~ The Department will release the Commissioner's Report on Underserved Communities after the collected data has been validated. At that time, two years' worth of data will be released. The Commissioner's Report on Underserved Communities which will report those communities within California, designated by ZIP code, that the Commissioner finds to be underserved by the insurance industry. A community shall be deemed to be underserved by the insurance industry if the Commissioner finds:

(1)(A) the proportion of uninsured motorists is ten percentage points above the statewide average as reflected in the most recent Department of Insurance statistics regarding the statewide average of uninsured motorists; and

(B) the per capita income of the community, as measured in the most recent U.S. Census, is below the fiftieth percentile for California; and

(C) the community, as measured in the most recent U.S. Census, is predominately minority. Predominately minority community can be quantified as any community that is composed of two-thirds or more minorities as those groups are defined in subsection (b)(6)(A) through (D) herein; or

(2) the proportion of uninsured businesses or residences is ten percentage points above the statewide and/or Standard Metropolitan Statistical Area ("SMSA") average as determined by the Commissioner following a public hearing convened for the purpose of determining the number of uninsured businesses or residences in this state.

(d) The Commissioner's Report on Underserved Communities shall list for each insurance company doing business in California:

(1) the number and percentage of total exposures the company has in force insuring risks in the underserved communities and in all other communities, stated separately by line as listed in (b)(1) above;

(2) the number and percentage of offices maintained in the underserved communities and in all other communities

(3) for an insurer distributing principally through means other than direct solicitation, the number and percentage of its agents maintaining offices in the underserved communities and in all other communities

(e) A person subject to the requirements of Title 10 CCR 2646.6 who fails to comply with a request for information or data pursuant to that section shall be liable for a civil penalty not to exceed five thousand dollars (\$5,000) for each 30-day period in which the person fails to comply, unless if the failure to comply is willful, in which case the ~~person shall be liable for a~~ civil penalty shall be in an amount not to exceed ten thousand dollars (\$10,000) for each 30-day period in which the person fails to comply, but not to exceed an aggregate amount of one hundred thousand dollars (\$100,000). In determining the penalty, the commissioner shall consider the good faith of the person and any similar prior violations by the person under this code.

(f) (e) The remedies in this section are in addition to any other remedy available to the Commissioner or to any other person.

AUTHORITY:

Note: Authority cited: Sections 12921 and 12926, Insurance Code; CalFarm v. Deukmejian, 48 Cal.3d 805 (1989). Reference: Sections 679.71, 1861.02, 1861.03, 1861.05 and 11628, Insurance Code.