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REGISTRATION REGISTRATION

STATE OF CALIFORNIA

Steve Poizner, *Insurance Commissioner*

**DEPARTMENT OF INSURANCE**

300 Capitol Mall, 16<sup>th</sup> Floor  
Sacramento, CA 95814



**TO:** Certain Interested and Affected Parties  
**FROM:** Natasha Ray / Ben Gentile  
**DATE:** January 30, 2009  
**RE:** Invitation to Prenotice Public Discussions on Contemplated Revisions to the Regulation Concerning the Community Service Statement and the Commissioner's Report on Underserved Communities

Pursuant to California Government Code Section 11346.45, California Insurance Commissioner Steve Poizner will hold a pre-Notice public discussion regarding contemplated revisions to California Code of Regulations, Title 10, Section 2646.6. These contemplated revisions would: 1) reduce the frequency of reporting the Community Service Statement to the Department of Insurance from annually to biennially (once every two years); and 2) impose penalties on insurers for tardy or inaccurate data reporting. The Commissioner's Report on Underserved Communities will continue to be issued annually.

You are hereby invited to participate in this pre-Notice public discussion. The purpose of this discussion is to permit certain interested and affected persons an opportunity to present statements or comments about the advisability of the contemplated revisions.

Public discussions will be held on the following date, at the times and location specified below:

**Date:** March 4, 2009  
**Location:** Ronald Reagan State Building  
Hearing Room (not the Auditorium), First Floor  
300 South Spring Street  
Los Angeles, CA 90013  
**Time:** 9:30 a.m. to 12:00 noon; 1:30 p.m. to 4:00 p.m. The discussions will end at 4:00 p.m. or as soon after 9:30 a.m. as all those wishing to speak have spoken, whichever is earlier.

The facility to be used for these public discussions is accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to notify the Department contact listed below by February 25, 2009, in order to make special arrangements.

Space is limited so we ask that you limit your organization's representation to one individual.

**THIS IS NOT THE FORMAL PUBLIC HEARING**

Please be advised that participation in these pre-Notice public discussions will be in addition to, and not in substitution for, participation in any formal rulemaking process that may ensue. This invitation to prenotice public discussions does not constitute a Notice of Proposed Action under the Administrative Procedure Act. Consequently, comments (oral or written) received in connection with these prenotice public discussions will not be included in the rulemaking file, which would not be opened until such time as formal notice were issued. Similarly, the Department is not required to respond to comments received before a Notice of Proposed Action has been published and a rulemaking file opened. For this reason, if you wish to have comments included in the rulemaking file, or to require the Department to respond to them as part of the process by which it may adopt this regulation, you must present your comments during the formal public comment period according to the procedures outlined in the Notice of Proposed Action at such time as that document may be issued, regardless of whether the comments have been made in connection with these prenotice public discussions. The Commissioner nonetheless welcomes your participation in these discussions, and hopes that any regulations that may subsequently be proposed can benefit from your input.

The text of the proposed regulation, with the contemplated revisions in shaded background, is attached.

All inquiries regarding these prenotice public discussions should be directed to the Department contact listed below.

Participants are requested to RSVP by February 25, 2009. Please RSVP by providing to Drake Shogun your name, the name of the organization (if any) which you represent, your mailing address, telephone number, and email address.

RSVP to:  
Drake Shogun  
California Department of Insurance  
300 Capitol Mall, Suite 1600  
Sacramento CA 95814  
Phone: (916) 492-3500  
Fax: (916) 322-7294  
Email: [ShogunD@insurance.ca.gov](mailto:ShogunD@insurance.ca.gov)

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

*10 CCR 2646.6 (2008)*

§ 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, on or before March 1 of every *oddnumbered* year each insurer writing the coverages listed in (b)(1) below shall file a Community Service Statement with the Department of Insurance's Statistical Analysis Bureau in Los Angeles. 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;

(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 maintaining offices in the ZIP code during the reporting period who identified themselves as conversant in a language other than English, listed by language as specified below:

(1) Spanish

(2) Chinese

(3) Japanese

(4) Filipino

(5) Korean

(6) Vietnamese

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

(6) the race or national origin, and gender, of each 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 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 Underseved 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 submits any false information in connection with a request for information or data pursuant to that section shall be liable for a civil penalty not to exceed one hundred thousand dollars (\$100,000.). 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 fail to comply. If the failure to comply is willful, the person shall be liable for a civil penalty 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.