

Smart's Insurance Bulletin

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Sides Agree On Agent-Broker Bill

One of the most contentious issues facing the California insurance industry has been settled. **AB 2956**, which clarifies the definitions of an agent versus those of a broker, has passed both the California Assembly and Senate. It is now being held at the Assembly desk pending resolution of the state budget impasse, when the bill will be sent to the governor.

Passage of the bill brought an end to more than two years of legal wrangling between producer trade groups and the Department of Insurance, which kicked off the tussle in 2006 when it unilaterally tried to impose wide ranging definitions of an insurance agent that the trade groups argued would effectively have made it impossible for brokers to function in the state.

The bill was passed following extensive negotiations between representatives of its two prime initiators, IBA West and the Alliance of Insurance Agents and Brokers, with CDI officials.

The bill provides that an insurance agent is a person who transacts insurance other than life, disability or health insurance on behalf of

an admitted insurance company. However, the key clauses of the bill establish "a rebuttable presumption, subject to exception, that a person is acting as an insurance broker if the application shows that the person is

"No-one got everything they wanted and that's the sign of a pretty fair deal." Mike D'Arelli, Executive VP, The Alli-

acting as an insurance broker and is licensed to act as an insurance broker in the state in which the application is submitted."

The bill specifies four specific situations in which the broker presumption is deemed rebutted: 1) where the insurer has appointed the licensee as its agent and filed a notice of said appointment with CDI; or in cases where the insurer has a written agreement with a licensee that expressly: 2) confers binding authority; 3) authorizes

the licensee to appoint other licensees as agents of that insurer; or 4) confers the authority to pay claims on behalf of the insurer.

In any other case, the presumption that a producer is an agent could be rebutted only by examining the totality of the circumstances.

The bill also requires that in all brokered transactions brokers must disclose their fees in a written agreement signed by the consumer. They must also disclose that they may receive compensation from the insurer, though they do not have to specify the amount.

The bill specifies that a broker may collect and transmit premium or return premium and deliver policies and other documents evidencing insurance without being construed as an agent.

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Renters Ignore Insurance Options

Only 35 percent of California's millions of households that rent their homes bother taking out rental insurance, a new survey by Allstate has found. The survey, conducted last month, found the exposure to be worst in the Los Angeles area, where only 27 percent of renters had insurance, compared to an impressive 53 percent of renters in the San Francisco Bay area.

Allstate noted that 80 percent of L.A. renters haven't compiled a home inventory checklist, compared with 73 percent statewide.

The survey highlighted what could be a great opportunity for insurers. Though premium levels are low, offering renters insurance allows companies to form insurance relationships with consumers who might also need car or health insurance, and at a later stage, homeowners insurance. Nationwide the survey found that just 40 percent of survey respondents said they have renters insurance, meaning that more than 50 million of the approximately 87 million Americans living in rental housing do not have insurance to cover their belongings in case of loss. With the real estate crisis

forcing more people onto the rental market the share of rental households jumped by about 1 million in 2007. This group is likely to expand further if foreclosure trends continue, according to Harvard University's Joint Center for Housing Studies.

Allstate's survey also found more than two-thirds of renters say they have not done a home inventory check list or tried to estimate the cost of replacing everything in their home in the past year or two. Fewer than one in five renters say they have taken photographs or videotaped their possessions during the past two years to help document what they own.

The survey found most renters underestimate the threat theft poses to their belongings. Nearly half (49 percent) of renters surveyed estimated the number of annual burglaries and other property crimes in the United States at less than 100,000, while the actual number of burglaries alone is 20 times that. According to the FBI's most recent Uniform Crime Report, there were more than 2 million burglaries in the U.S. in 2006. Only one in 20 renters guessed the number was in this range.

"This survey highlights the impor-

tance of educating American families who rent about the risks facing their possessions," said Jeff Deigl, assistant vice president of specialty product lines for Allstate. "It's a wake-up call to increase awareness of the available options to manage these risks."

The survey found that the biggest reasons renters don't purchase renters insurance are: 1) they haven't made the time to look into it (43 percent) or 2) they believe the coverage is too expensive (33 percent). Various other reasons, such as not owning enough valuables to justify having the insurance and believing landlords are responsible for insuring renter's personal property, were given by 23 percent and 10 percent of respondents, respectively.

Misperceptions about the price of renters insurance were particularly telling. Three out of ten respondents thought renters insurance cost at least three times as much as its actual price tag, an average of \$15 per month. Another 20 percent had no idea how much it cost. When polled, six out of ten renters thought renters insurance was worthwhile, even at an average of \$20 per month.

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Agent-Broker Bill

Mike D'Arelli, vice president of the Alliance, said the eventual compromise owed a lot to the personal intervention of insurance commissioner Steve Poizner, who inherited the quagmire from his predecessor, John Garamendi, but sought compromise instead of confrontation. "The department wanted us to include specific acts that we could all agree were indicative of agency," added D'Arelli. "No-one got everything

they wanted and that's the sign of a pretty fair deal."

Equally important was the realization among the often competing producer trade associations that they had to work together on this. Buttressed by a strong grass-roots initiative and a strong lobbying organization, the alliance of trade groups forced the bill's major opponents to the realization that compromise was the only way.

"The Commissioner came on board in the end," said lobbyist John Norwood,

who represents IBA West. "We appreciate that he moved into a support position."

Attorney Sanford Michelman, who drafted the legislation, said that prolonged and repeated discussions helped persuade the department, consumer groups and plaintiffs' lawyers that clarifying the murky agent-broker definitions would provide benefits to each constituency. "We were able to get them to see that it was a good bill for everyone," he said.