# 2008 YEAR-END LEGISLATIVE REPORT

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A lot can change in the course of a legislative year. Politicians, ranging from the Governor to the legislative leadership, began the year with high hopes that the 2008 legislative session would produce significant policy reforms. That position seemed to have merit, particularly in the area of healthcare insurance, when the Speaker of the Assembly and the Senate President pro Tempore agreed to coauthor Governor Schwarzenegger’s healthcare reform proposal that would have extended insurance coverage to millions of uninsured Californians. The demise of the Schwarzenegger plan offers a cautionary tale on grand legislative ambitions and lends a particular perspective to 2008 legislative events.

Despite the support of the legislative leaders, the Schwarzenegger healthcare proposal faltered under the weight of its $14.9 billion price tag. Heavy lobbying, particularly from consumer advocates who protested the individual mandate to purchase coverage, dulled the plan’s appeal. Even more important, the pronounced state budget deficit stalled the political momentum behind the plan. Schwarzenegger’s political ambitions, as well as those held by the legislative leaders, had to yield to the reality of the budget, not just on healthcare but on any and every legislative proposal that would require significant new state spending. Budget reality trumped legislative imagination.

For a business interest not dependent on state spending, a budget stalemate can actually improve its political position; even liberal legislators recognize that proposals for new programs and new mandates will not fly while budget deficits loom. Instead, the political debate turns reactive, with legislators and allied political constituencies focused on preserving spending for existing pet programs and projects. That describes the 2008 political environment, in which property & casualty insurance interests benefited from legislative inattention.

Soft markets help insurers in politics if not in profits. As a soft market typically lowers or stabilizes rates, a corresponding drop in the number of consumer complaints usually occurs as well. When legislators are not hearing complaints from constituents about how expensive coverage has become, or about how stringent claims-handling practices have gotten, as a rule they are not introducing bills to regulate rates or restrict claims-handling either. The only big insurance event that drew the attention of legislators during 2008 was the Southern California fires. Because a similar conflagration had occurred in San Diego in 2005, however, the Legislature had already recently made a number of statutory changes to improve the position of fire victims, limiting calls for further statutory changes. Insurance Commissioner Steve Poizner also brought an aggressive oversight approach to the insurance response – with which insurers by and large cooperated – thereby channeling public discontent into the regulatory rather than the legislative process. Even without a quiet fire
season in 2009, however, this issue could reignite next year as 3,600 fire claims relating to underinsurance are still pending. If problems arise with this batch of claims, new political proposals could soon follow.

**Passing a De Facto Agency Bill**

The single accomplishment of the insurance lobby in 2008 was enactment of AB 2956 (Coto), legislation that would better distinguish what acts of an insurance licensee amount to agency as opposed to brokerage. IBA West sponsored AB 2956, backed by a coalition of producer organizations that included the California Insurance Wholesalers Association and The Surplus Line Association of California. The legislation creates a statutory presumption that a licensee is acting in the capacity of an insurance broker when certain specified conditions are present in a transaction. That presumption can be rebutted, however, and the bill codifies a “totality of the circumstances” test that directs the insurance commissioner, an administrative law judge, or a civil court to consider all the circumstances present in an insurance transaction when determining whether an insurance licensee acted in the capacity of an insurance agent or a broker.

In the effort to pass AB 2956, the provision codifying the “totality of the circumstances” test brought the biggest opposition from the trial lawyers and self-styled consumer groups. That opposition reflects the absolute value this provision will bring to insurance producers; no longer will the California Department of Insurance or class-action lawyers be able to claim that the Insurance Code provides an “any one act” standard for agency. With AB 2956 now the law, insurance brokerage operations no longer have to fear that the CDI or a plaintiff lawyer will attempt, after the fact, to characterize a brokered transaction as an act of agency and thereby seek to impose retroactive liability and a return of broker fees.

**Surprising Veto of Life Settlement Reform**

Governor Schwarzenegger vetoed SB 1543 (Machado), legislation that would have regulated life settlement transactions in California. The Governor’s veto came as a bit of a surprise to the life insurance lobby, considering that the Legislature enacted this bill with only a single NO vote cast in each chamber and the fact that Administration staff had expressed cautious support for the measure during the legislative process. The bill was based on model legislation developed by the National Council of Insurance Legislators; included in its provisions were relatively strong consumer disclosure requirements and a ban on so-called STOLI – Stranger Originated Life Insurance – transactions in which a third party induces a senior with insurance capacity to take out a life insurance policy that the third party would benefit from and control. Most insurance consumer groups backed the Machado bill, making the veto all the more surprising given the Governor’s preference for being seen as a consumer advocate. Given the breakdown in relations between the Governor and the
Legislature as a result of the budget deal, some have explained the SB 1543 veto as part of an overall effort by the Governor to punish the Legislature by vetoing all but absolutely necessary legislation this year. Whatever the explanation, expect to see an effort to pass similar legislation next year, but this time with the Administration engaged earlier in the legislative process.

**Little Change in Workers’ Compensation**

Workers’ compensation insurance is a perennial legislative issue. But, mindful of the analysis offered above linking budget deficits with diminished legislative activity; do not confuse quantity with quality in this subject area. Thirty different workers’ compensation bills found their way into print this year, but those that made it through the process proposed only modest changes.

The most controversial workers’ compensation proposal came in AB 2692 (Hernandez), which would have replaced the current file-and-use rating law with a Proposition 103-style prior-approval regulatory scheme. With the recent sharp declines in workers’ compensation rates, little support emerged for such a radical step, however; and Assemblyman Hernandez dropped this proposal before its first legislative hearing.

In the end, only thirteen workers’ compensation bills passed out of the Legislature this year. Of these, Governor Schwarzenegger signed but six into law. The most significant were AB 1874 (Coto) and SB 1145 (Machado), representing a coordinated effort by the chairman of each house’s Insurance Committee to reorganize the State Compensation Insurance Fund (SCIF). Together these bills expand the size of the SCIF governing board from 5 to 9 members and require the board to appoint a General Counsel, Chief Financial Officer, Chief Technology Officer, Chief Investment Officer and Chief Risk Officer. The bills also specified, as a matter of statutory law, that SCIF is a state body and therefore subject to both the Bagley-Keene Open Meeting Act and the California Public Records Act; the legislation does provide for numerous exceptions to application of both these laws, however, in order to allow SCIF to protect propriety information relating to underwriting, rate making and other policyholder or claims related information.

For the third time in three years, Governor Schwarzenegger vetoed a bill by Senate President Perata that would have doubled permanent disability benefits in workers’ compensation over five years. While Senator Perata will leave office this year as a result of term limits, the idea of increasing PD benefits faces no similar term limit and likely will reappear under a different author’s name in 2009.
Proposed Emergency Response Surcharge

Knowing that a budget gap was looming, the Governor’s staff started looking for sources of new revenue back in January. A proposal to levy a fee on both residential and commercial property insurance policies to fund state fire-suppression activities gathered support early among Administration officials, making its way into the Governor’s first budget proposal. Because the bulk of state fire-fighting costs incurred come from fighting rural wildfires, legislators representing urban and suburban districts did not initially embrace this proposal. To broaden political support for the measure, the Administration broadened the scope of activities that this new fee would support. Labeled the Emergency Response Surcharge (ERS), the Administration expanded the second iteration of this proposal to fund the state response to all natural catastrophes, including earthquakes and floods. In this form, the ERS would have imposed a surcharge on the property portion of all commercial and residential property insurance policies, including policies placed with non-admitted insurers. The Department of Finance estimated that the ERS proposed in the Schwarzenegger budget would raise as much as $250 million a year to fund the purchase of additional equipment and resources necessary to respond to natural catastrophes. Democratic budget writers, eager for cash, included the ERS in the legislative budget proposal, but at double the rate that the Governor had initially proposed. In the end, however, the ERS became a political nonstarter when Republicans labeled the new charge a “tax” and refused to support it. With a deficit looming in 2009, however, expect the Democrats to resurrect the ERS next year.

Lots of Discussion on Healthcare Reform, Few Changes Made

As the political difficulties plaguing the Schwarzenegger healthcare reform plan became evident, some legislators pivoted away from comprehensive proposals and instead pushed piecemeal reform efforts, including segments of the Schwarzenegger plan offered in stand-alone legislation.

Throughout the summer, and despite the obviously dwindling chances for enactment of its plan, the Administration continued to hold drafting sessions with interested parties. By mid-year, the Governor’s office had developed draft language over a broad range of subjects, including: (1) 24-Hour Coverage Pilot Program; (2) Balance Billing; (3) E-Prescriptions; (4) Healthy Action Healthy Rewards Program; (5) Medical Loss Ratio; (5) Medi-Cal Managed Health Care Surveys; (7) Non-Payment of Adverse Events; (8) Nurse Practitioner Scope of Practice; (9) Patient Safety Plan; (10) Personal Health Records and E-transmission; (11) Rescission (Insurance Code); (12) Rescission (Knox-Keene); (13) Tiering of Individual Market Products; and, (14) Transparency.

The Administration attempted to deal itself back into the legislative game during the summer. Schwarzenegger officials approached legislators carrying bills affecting the subject areas for which the Administration had language with a proposal: if the legislator amended
his/her bill to include the statutory language that the Administration had developed then the Governor would commit to signing the proposal. Only a few legislators took the Governor’s office up on its offer, however. In the end only a handful of healthcare bills in these subject areas won legislative approval.

Significant healthcare bills sent to the Governor for final action included SB 981 (Perata) on balanced billing, SB 1440 (Kuehl) concerning medical loss ratios, and AB 1945 (De La Torre) and AB 2569 (de Leon) addressing the issue of rescission. While the Governor signed SB 981 and AB 2569 into law, he vetoed both SB 1440 and AB 1945. The Legislature itself defeated other bills on rescission – AB 2549 (Hayashi) – and tiering or standardization of individual health insurance policies – SB 1522 (Steinberg). Most other healthcare proposals, affecting subject areas for which the Administration had not advanced its suggested language, failed as well, especially when implementation would have involved significant state costs and/or regulation.

Despite – or perhaps more accurately “in spite of” – the Governor’s efforts, Senator Shelia Kuehl made a last ditch effort to enact a “single payer” healthcare plan. She was for the second time in three years able to pass her proposal – SB 840 – out of the Legislature, but again Governor Schwarzenegger vetoed the bill when it reached his office.

Legislation to impose additional coverage mandates did not fare well, either. Although the Legislature approved new mandates for coverage with respect to cervical cancer, acupunctureists, hearing aids, mental healthcare, maternity services, durable medical equipment, and orthodontic services, Governor Schwarzenegger approved only one of these measures; AB 1894 (Krekorian) will require health care service plans and health insurers to provide coverage for human immunodeficiency virus antibodies and an acquired immune deficiency syndrome test on or after January 1, 2009.

Other Insurance Issues

Six other miscellaneous insurance bills earned a signature from Governor Schwarzenegger this year. SB 133 (Aanestad) requires marketing representatives of title insurance firms to register with the Department of Insurance and allows the CDI to discipline those representatives who violate the anti-rebate law. SB 1467 (Machado) provides that meetings of the California Insurance Guarantee Association Board of Directors and its audit committee are open to the public. AB 2044 (Duvall) authorizes the Insurance Commissioner to employ a citation-and-notice system instead of the formal CDI disciplinary process when licensees commit minor violations of the Insurance Code and also alters continuing education requirements for insurance producers. AB 2150 (Berg) prohibits insurance producers from using any designations that would indicate a special expertise in knowledge or sales of insurance products for senior citizens unless the designation program has
received approval from the Insurance Commissioner. AB 844 (Berryhill) and SB 691 (Calderon) set up a regulatory program to govern the recycling of metal products that includes a requirement that the seller provide proof of identification, the recycler inventory pictures of the recycled items, as well as a holding period for checks issued to sellers, all designed to fight the growing problem of metal theft.

A Good Year

Statutory resolution of the “de facto agency” issue over the opposition of trial-lawyer and consumer interest groups alone qualifies 2008 as a successful year. Insurance interests fared well across the full range of issues, however. Comprehensive healthcare reform was derailed as was the move to impose prior approval for workers’ compensation rates. The SB 899 (Poochigian) reforms of 2004 in workers’ compensation remain intact while no legislative effort was mounted to impose additional claims-handling restrictions for homeowner’s policies. Calm reigned over the subjects of automobile insurance, general commercial insurance and in the area of specialized lines such as title insurance, home warranty and service contracts. While legislation affecting life settlements, auto-body repair, comprehensive healthcare reform, and workers’ compensation reform will return in 2009, the same budget-deficit dynamics that limited legislative initiative in 2008 will be present again next year.
AB 1699 (Duvall): This is a two-year bill that was amended in 2008. The bill’s amendments sought to modify the new fee structure and requirements for surplus line broker licensees enacted last year to eliminate unintended and inequitable consequences of those changes. AB 1699, as amended, changes the license fee for an individual surplus line broker who transacts surplus line insurance only on behalf of a surplus line broker organization from $700 to $500 every two years and changes the surplus line broker organization license and the individual surplus line license fees from $700 to $1,000 every two years. The bill also clarifies the requirement that an individual be licensed as a surplus line broker to transact surplus line brokerage business and makes other changes to the surplus line law, including requiring all licensees in a producer’s office to take a surplus line continuing education class once every 5 years. This bill took effect immediately as an urgency statute to ameliorate the unintended financial consequences of legislation enacted last year.

Votes: Assembly 70-0, Senate 36-0

AB 2044 (Duvall): This bill, sponsored by the California Department of Insurance (CDI), provides the Insurance Commissioner the authority to issue citations and assess administrative fines for minor violations of the Insurance Code by insurance agents and brokers. Currently, the CDI can only issue a verbal warning or institute a formal legal action where producers commit minor violations of the Insurance Code. The bill permits disciplinary action that is stronger than a verbal warning but much less costly than a full legal proceeding. Minor violations include, but are not limited to, failure to display a producer license number in advertisements, failure to report changed background information in a timely manner, and minor misstatements on an application for a license or renewal. AB 2044 also reduces the requirements for producer continuing education from 30 hours every 2 years to 24 hours every 2 years for a broker-agent license.

Votes: Assembly 75-0, Senate 34-2
Status: Signed by the Governor. Chapter 300, Statutes of 2008.

AB 2149 (Berg): This bill prohibits a broker-dealer or investment advisor from using senior specific certifications, credentials or professional designations indicating that he or she has had special training in advising or servicing senior citizens or retirees in such a way as to mislead any person, unless he or she obtained the senior designation from an approved organization.

Votes: Assembly 76-0, Senate 26-9
**AB 2150 (Berg):** This bill prohibits an insurance broker or an agent from using a senior designation in any oral or written communication used to sell insurance to a senior unless certain conditions have been met. The bill defines “senior designation” and establishes the conditions under which a senior designation may be used. Lastly, the bill sets up a process for the Insurance Commissioner to approve an organization that issues senior designations.

Votes: Assembly 76-0, Senate 39-0  

**AB 2589 (Solorio):** This bill requires a health care service plan or health insurer to annually disclose to the governing board of a public agency that is a group subscriber or group policyholder, the name and address of and amount paid to any agent, broker, or individual to whom the health plan or health insurer paid fees or commissions.

Votes: Assembly 76-0, Senate 37-0  

**AB 2956 (Coto):** This bill, sponsored by Insurance Broker & Agents of the West, brings to a close nearly a decade of controversy relative to the issue of “defacto agency,” that involved producers, insurers, trial lawyers, the California Department of Insurance, and consumer groups. AB 2956 clarifies in the Insurance Code that the Department of Insurance, administrative law judges and the courts must use the “totality of circumstances” to determine whether an insurance licensee is acting in the capacity of an agent on behalf of the insurer or a broker on behalf of a customer or the insured. The bill also creates a presumption that the licensee is acting in the capacity of a broker under certain circumstances relating to disclosure, clarifies that a broker can perform the activities under Insurance Code §1732, (i.e., collecting premiums and issuing evidence of insurance without being considered an agent in any way), and sets forth key circumstances where a licensee is presumed to be acting as an agent. This bill was supported by a coalition of producer groups, including the California Insurance Wholesalers Association and the Surplus Line Association of California.

Votes: Assembly 71-0, Senate 34-0  
AUTOMOBILE INSURANCE

**AB 2042 (Fuentes):** This bill would allow a peace officer to remove and impound a vehicle when citing a person for acting as an unlicensed vehicle dealer.

Votes: Assembly 75-0, Senate 32-1  

**AB 2139 (De La Torre):** This bill would have prohibited any automobile insurance policy issued after January 1, 2009 from expressly or impliedly excluding coverage for the operation or use of an insured motor vehicle by the named insured in the performance of in-home support services. In addition, this bill would have prohibited an insurer from classifying a motor vehicle as a carrier, livery, or for-hire vehicle solely for the reason that the vehicle is used to provide transportation incidental to the provision of in-home support services.

Votes: Assembly 76-0, Senate 22-1  
Status: Vetoed by the Governor. See veto message, Appendix A.

**AB 2273 (Fuentes):** This bill requires the Department of Motor Vehicles to issue a non-repairable vehicle certificate for a vehicle without a certificate of ownership if the owner of the vehicle has failed to provide the certificate of ownership to an insurance company upon acceptance of a total loss settlement and the insurance company has made at least two written attempts to obtain the certificate of ownership.

Votes: Assembly 68-0, Senate 35-0  

**AB 2688 (De La Torre):** This bill authorizes automobile insurers to use the same reports to verify driving records of assigned risk policyholders that they use for voluntary market policyholders.

Votes: Assembly 75-0, Senate 37-0  

**AB 2800 (Huffman):** This bill would have provided that, in determining the "number of miles driven annually" rating factor, insurers may apply different rating factors for insurer-verified annual mileage and applicant-estimated annual mileage. The insurer-verified annual mileage rating factor would have been a voluntary mileage-based insurance program.

Status: This bill was placed on the Senate Inactive File at the request of the author.
**AB 2825 (Carter):** This bill would have authorized an automotive body shop consumer to receive copies of invoices from the distributor, dealer, or manufacturer for all crash parts installed in excess of $50. This bill would also have required the written estimate and the final invoice provided by the body shop to include a notice stating that installing parts other than those described on the estimate without the consumer's prior approval is unlawful and would require copies of crash part invoices, if requested by the consumer, to be attached to the final invoice.

Votes: Assembly 77-0, Senate 24-13
Status: Vetoed by the Governor. See veto message, Appendix B.

**AB 3057 (Committee on Insurance):** This bill makes non-substantive changes to existing law by correcting two obsolete references to laws governing the sale of automobile insurance. AB 3057 deletes an obsolete reference in a section of law that requires an insurance company that provides a notice of rescission of an automobile liability policy, upon the request of the driver, to furnish the insured driver a statement within 15 days specifying the grounds for the rescission and corrects a code reference regarding the duty of the "assigned risk plan" to offer coverage in the amount necessary to establish the financial responsibility of a driver.

Votes: Assembly 75-0, Senate 35-0

**SB 28 (Simitian):** This bill specifically prohibits a person from writing, sending, or reading a text message while driving a motor vehicle. Violators would be subject to a base fine of $20 for a first offense and $50 for each subsequent offense, but these offenses would not result in a violation point being added to the person's driving record.

Votes: Assembly 52-24, Senate 25-14

**SB 60 (Cedillo):** This bill would have required the State of California to comply with the federal Real ID Act of 2005, a measure that establishes standards for the issuance of drivers licenses and identification cards that may be used by federal agencies for official purposes. In complying with the Real ID Act, this bill would have required the Department of Motor Vehicles to issue drivers' licenses and identification cards to persons who are not able to demonstrate legal presence status.

Votes: Assembly 41-31, Senate 21-14
Status: Vetoed by the Governor. See veto message, Appendix C.
SB 1059 (Migden): This bill would have prohibited an insurer from requiring the installation of an aftermarket part on a vehicle if the part to be replaced was under an existing original manufacturers warranty, and would have prohibited the insurer from limiting payment to the cost of an aftermarket part, up to a maximum of three years after the vehicle was sold as new.

Status: This bill was placed on the Senate Inactive File at the request of the author.

SB 1167 (Wiggins): This bill would have required the Insurance Commissioner to convene a task force to review issues arising from the implementation of the automobile repair anti-steering statute, and to report its findings to the Legislature by December 31, 2009. Task force members may have included, but not limited to, representatives of the automobile insurance industry, the collision repair industry, the Department of Consumer Affairs, and consumer protection organizations.

Votes: Assembly 76-0, Senate 39-0
Status: Vetoed by the Governor. See veto message, Appendix D.

SB 1190 (Oropeza): This bill reduces from 0.20% to 0.15% the blood alcohol content trigger for heightened consideration by the court to order installation of a certified ignition interlock device after a person has been convicted of driving under the influence.

Votes: Assembly 77-0, Senate 35-0

SB 1361 (Correa): This bill would have allowed a driving under the influence offender to obtain a restricted license sooner if an ignition interlock device were installed and fees are paid.

Votes: Assembly 77-1, Senate 38-1
Status: Vetoed by the Governor. See veto message, Appendix E.

SB 1371 (Correa): This bill prohibits automobile insurers from capping offers and payments for paint and materials charges, and defines “capping” for that purpose. [SB 1371 is a result of workshops, and subsequent negotiations between the automobile body industry, insurers and the California Department of Insurance.]

Votes: Assembly 75-0, Senate 39-0
SB 1388 (Torlakson): This bill changes the mandate which requires the installation of an ignition interlock device when a person has been convicted of driving on a suspended license that was suspended because of a driving under the influence conviction from a court-imposed sanction to an administrative sanction, and to set up the administration of the regulation of ignition interlock devices to the Department of Motor Vehicles.

Votes: Assembly 77-0, Senate 30-7
BUSINESS OF INSURANCE

AB 1051 (Calderon): This bill would have defined the term "unfairly discriminatory" and provided that when an insurance rate is challenged in court, the court's ruling cannot be applied retroactively for purposes of regulation of automobile insurance.

Status: This bill failed passage in the Senate Banking, Finance & Insurance Committee.

AB 1088 (Carter): This bill clarifies that "risk finance" portions of "blended finite risk" contracts used with respect to federal Superfund clean-up settlements are not "premium" for purposes of the 3% gross surplus line premium tax. AB 1088 defines "blended finite risk" products to be a contractual arrangement combining finance risk with traditional risk transfer (insurance) where a distinct portion of the contract represents the funding of a known, existing, nonfortuitous future cost or obligation, and the other portion represents a risk transfer for what would traditionally be an insurance arrangement.

Votes: Assembly 78-0, Senate 36-0

AB 1188 (Coto): This bill authorizes a self-funded or partially self-funded multiple employer welfare arrangement to purchase an office building(s) that are used for its principal operations of business.

Votes: Assembly 67-0, Senate 37-0

AB 1565 (Lieber): This bill would have provided that a property insurance policy covering a place of religious observance or practice cannot be cancelled or nonrenewed, nor can the premium be increased, based on a claim occurring as a result of any crime committed against the insured property. AB 1565 would have defined "place of religious observance or practice" and defined "religious" as it relates to a crime against a place of religious observance or practice; and redefine the existing Insurance Code definition of hate crimes for property insurance purposes.

Votes: Assembly 44-30, Senate 24-14
Status: Vetoed by Governor. See veto message, Appendix F.
**AB 1752 (Calderon):** This bill would have required the California Earthquake Authority to conduct a study, within existing resources, to determine the impact of the State of California serving as the sole reinsurer of the California Earthquake Authority and to report findings to the Legislature by January 1, 2010.

Status: This bill was held in the Assembly Appropriations Committee.

**AB 1906 (Salas):** This bill would have added identity theft to the list of classes of insurance that may be transacted in California, upon approval by the Insurance Commissioner.

Votes: Assembly 47-32, Senate 23-15
Status: Vetoed by the Governor. See veto message, Appendix G.

**AB 1910 (Coto):** This bill would have required each admitted insurance company that writes premiums of $100 million or more annually to develop and file a "Community Development Investment" policy with the Insurance Commissioner that expresses the insurer's goals for community development investments for the current and following calendar year. The first policy must have been filed no later than July 1, 2009, and subsequent policies shall be filed every two years thereafter. An insurance company affiliated with an insurance holding company system may have provided information on community development investments through a single filing of the holding company, provided the data filed accurately reflects the investments made by each affiliate. This bill would have allowed an insurance company to satisfy the filing of data requirement if the filing is made by a community development financial institution when: (1) the insurer is at least a 10 percent owner in a COIN-certified community development institution; (2) the insurer makes community development investments through this institution; and, (3) the community development financial institution accurately files the information on behalf of the insurer and identifies the dollar amounts of the investments made by that insurer. Lastly, AB 1910 would have extended the current January 1, 2011 sunset date on the existing law that requires insurance companies to provide information every two years to the Insurance Commissioner on all community development investments they make in the state to January 1, 2015.

Votes: Assembly 47-31, Senate 23-13
Status: Vetoed by the Governor. See veto message, Appendix H.
**AB 2143 (de Leon):** This bill extends the sunset date for funding of the Department of Insurance's Fraud Division and the Organized Automobile Fraud Activity Interdiction Program to ensure continued funding for state and local law enforcement agencies combating automobile fraud in California.

Votes: Assembly 60-12, Senate 36-3  

**AB 2203 (de Leon):** This bill increases the limit on the amount of foreign investments that California-domiciled insurance companies may make from 4% to 20% of excess funds and prohibits investments by those insurers in foreign countries designated by the U.S. Secretary of State as state sponsors of terrorism. AB 2203 also prohibits a domestic insurer from acquiring, directly or indirectly, an investment of more than 3% of its admitted assets in specified investments held by a single person, or more than 5% in the voting securities of a depository institution.

Votes: Assembly 75-0, Senate 35-0  

**AB 2268 (Fuentes):** This bill would have required an insurance rating organization to waive its copyright claim on data or reports filed with the Insurance Commissioner as a condition of obtaining or retaining a state license.

Status: The author decided not to pursue this measure the year.

**AB 2731 (Emmerson):** This bill expands the definition of "qualified custodian" for the purposes of regulating domestic admitted insurers. AB 2731 authorizes a national bank that has a net worth of at least $100 million, or that demonstrates to the satisfaction of the Insurance Commissioner that it is financially secure, to serve as a "qualified custodian" of the securities in which domestic insurers have invested.

Votes: Assembly 75-0, Senate 35-0  

**AB 3054 (Committee on Insurance):** This bill would have incorporated a number of corrective and clarifying amendments suggested by the Department of Insurance. AB 3054 would have:

- Required the notice to domestic insurers of "reciprocal states" by the Insurance Commissioner to be made every four years, instead of annually.
• Required the Insurance Commissioner to consider new factors in determining the nature and frequency of market conduct examinations for insurers. The analysis performed would be at the expense the insurer being examined.

• Required the mandatory audit of insurers to comply with the National Association of Insurance Commissioners accreditation requirements and improve the quality of financial reporting by increasing accountability of management oversight and would provide the authority for the Commissioner to promulgate regulations. In addition, the bill would have allowed the Commissioner to grant multiple 30-day extensions and require insurers to request the extension within 10 days of the audit due date.

• Allowed insurers to invest in credit unions and, thereby, provide another option that can help in making community development investments.

• Clarified that limits on excess funds investments applies to both loans and obligations.

• Provided that child safety seats that are damaged during an event such as auto theft, fire or collision where the seat is destroyed or damaged, would be covered under an automobile policy.

Votes: Assembly 76-1, Senate 38-0
Status: Vetoed by the Governor. See veto message, Appendix I.

**SB 1279 (Maldonado):** This bill authorizes the Insurance Commissioner to utilize electronic documents to the extent not prohibited by law. SB 1279 deletes the requirement that insurers’ quarterly and annual financial statements be filed in triplicate. This bill also deletes a requirement that the Commissioner certify to county clerks information about surety and bail agents, and instead requires the Commissioner to maintain this information on the Department of Insurance website. Lastly, the bill authorizes the Department of Insurance to maintain its records and handle transactions in electronic form to the extent not prohibited by law.

Votes: Assembly 75-0, Senate 37-0

**SB 1467 (Machado):** This bill provides that all meetings of the California Insurance Guarantee Association (CIGA) board of directors and its investment and audit committees shall be open to the public. SB 1467 requires CIGA to provide 10-day advance notice of a meeting. Under this bill, CIGA is authorized to hold closed sessions to allow the board members to consider confidential matters relating to association borrowing, pending insolvencies, personnel issues, privileged legal advice, or non-public information on an insurer member.

Votes: Assembly 76-0, Senate 39-0
CONSTRUCTION DEFECTS

AB 2738 (Jones): This bill provides that a subcontractor would have no defense or indemnity obligation to a builder or general contractor for a construction defect claim unless and until the builder or general contractor provides a written tender of the claim to the subcontractor which includes all of the information provided to the builder or general contractor by the claimant or claimants relating to claims caused by that subcontractor's scope of work. The written tender would have the same force and effect as a notice of commencement of a legal proceeding. If a builder or general contractor tenders a claim for construction defects, or a portion thereof, to a subcontractor, the subcontractor would be required to elect one of two defense postures, the performance of which would be deemed to satisfy the subcontractor's defense obligation to the builder or general contractor. AB 2738 provides for the allocation of damages and attorney's fees if the builder, general contractor, or subcontractor fails to fulfill his or her duties under the bill's provisions. The bill also provides that nothing in its provisions would prohibit the parties from mutually agreeing to reasonable contractual provisions for damages. This bill also imposes certain requirements upon any wrap-up insurance policy or other consolidated insurance program that insures a private residential work of improvement that first commences construction after January 1, 2009. AB 2738 requires an owner, builder, or general contractor obtaining the policy or program to disclose the total amount or method of calculation of any credit or compensation for premium required from a subcontractor or other participant for that policy or program, and other information regarding the policy. Lastly, the bill imposes similar disclosure requirements if an owner, builder, or general contractor obtains a wrap-up insurance policy or other consolidated insurance program for a public work or any other project other than residential construction that is put out for bid after January 1, 2009.

Votes: Assembly 75-0, Senate 35-1
FIRE PROTECTION

**AB 1617 (Kehoe):** This bill would have imposed a $50 annual fee on dwellings located in a state responsibility area for fire prevention and suppression, the revenue from which would be spent by the Board of Forestry and Fire Protection for local grants and other activities designed to enhance fire prevention efforts.

Status: This bill was held on the Assembly Floor Inactive File.

**AB 2742 (Furutani):** This bill adds leased or rented firefighting equipment to the list of eligible equipment for which the Department of Motor Vehicles may issue a restricted driver’s license to a firefighter if they are participating in a substance abuse program.

Votes: Assembly 78-0, Senate 37-0

**AB 2859 (Gaines):** This bill expands the authority for the California Department of Forestry and Fire Protection to thin green trees and other vegetation to promote healthy forests in areas with disease or insect infestation and facilities. In addition, AB 2589 increases fuel treatment and clearance by exempting certain treatment activities, such as removal of trees 16 inches in diameter at breast height for fire or fuel breaks adjacent to communities, from the requirement of the Timber Harvesting Plan.

Votes: Assembly 78-0, Senate 39-0

**AB 3075 (Committee on Governmental Organization):** This bill requires the Office of Emergency Services to give first priority for the sale of new or used firefighting apparatus and equipment to a local agency that serves a rural area and gives second priority to any other local agency.

Votes: Assembly 78-0, Senate 35-0

**SB 1595 (Kehoe):** This bill updates fuel management laws by amending defensible space requirements that separate structures from surrounding vegetation and other potential wildfire fuels. The purpose of this bill is to reduce the amount of embers, which are often carried by strong winds up to one mile ahead of the flames, rapidly spread wildfires. Controlling the number of airborne embers can significantly reduce the risk of igniting nearby homes.

Votes: Assembly 77-0, Senate 37-0
SB 1668 (Migden): This bill requires the State Fire Marshal to prepare and adopt regulations establishing minimum requirements for the protection of life and property against fire and panic, for a laboratory and development facility that stores, handles, or uses regulated hazardous materials.

Votes: Assembly 75-0, Senate 39-0
HEALTH CARE

AB 2 (Dymally): This bill would have revised and restructured the Major Risk Medical Insurance Program (MRMIP), administered by the Managed Risk Medical Insurance Board, which provides subsidized individual health care coverage for medically uninsurable persons. AB 2 would have secured additional funding and coverage for MRMIP-eligible persons by requiring all health plans and health insurers selling individual coverage in California to accept assignment of such persons or to support the costs of MRMIP through a per person fee on individual health plan contracts and policies. In addition, this bill would have enacted certain program changes related to eligibility, benefits, and program administration.

Votes: Assembly 46-29, Senate 23-14
Status: Vetoed by the Governor. See veto message, Appendix J.

AB 16 (Evans): This bill would have required health plans and health insurers that currently provide coverage for cervical cancer to also cover the human papillomavirus (HPV) vaccination.

Votes: Assembly 49-26, Senate 25-13
Status: Vetoed by the Governor. See veto message, Appendix K.

AB 30 (Evans): This bill would have required all health plans and health insurers to cover the testing and treatment of inborn errors of metabolism.

Votes: Assembly 47-30, Senate 25-14
Status: Vetoed by the Governor. See veto message, Appendix L.

AB 54 (Dymally): This bill would have required health plan contracts and health insurance policies to provide group coverage for services provided by an acupuncturist.

Votes: Assembly 48-25, Senate 22-14
Status: Vetoed by the Governor. See veto message, Appendix M.

AB 368 (Carter): This bill would have required health care plans and health insurers to provide coverage for hearing aids.

Votes: Assembly 46-27, Senate 22-14
Status: Vetoed by the Governor. See veto message, Appendix N.
AB 1150 (Lieu): This bill prohibits health care service plans and disability insurers selling health insurance from setting performance goals, quotas and compensation based on, or related in any way to, the number of persons, contracts, policies, or certificates for health insurance rescinded, cancelled, or limited, or the resulting cost savings to the health plan or insurer.

Votes: Assembly 76-0, Senate 37-0  

AB 1155 (Huffman): This bill would have required the director of the Department of Managed Health Care, upon a final determination that a health care service plan has underpaid or failed to pay a provider in violation of provisions in the Knox-Keene Health Care Service Plan Act of 1975 relating to unfair payment patterns, to require the plan to pay the provider the amount owed plus interest, as well as to assess against the plan an administrative penalty to be deposited in the Managed Care Fund.

Votes: Assembly 47-26, Senate 24-11  
Status: Vetoed by the Governor. See veto message, Appendix O.

AB 1203 (Salas): This bill establishes uniform requirements governing communications between health plans and non-contracting hospitals related to post-stabilization care following an emergency, and prohibits a non-contracting hospital from billing a patient who is a health plan enrollee for post-stabilization services.

Votes: Assembly 78-0, Senate 34-3  

AB 1554 (Jones): This bill would have required health care service plans licensed by the Department of Managed Health Care (DMHC) and health insurers certificated by the California Department of Insurance (CDI), to submit a rate application for approval by the respective regulator for any increase in the rate charged to a subscriber or insured. AB 1554 would have imposed on the DMHC and CDI specific rate approval criteria, timelines, and hearing and notice requirements. In addition, the bill would have created the California Health Care Rate Advisory Board, comprised of specified members, to advise the Director of the DMHC on regulations adopted pursuant to this measure.

Status: This bill was held in the Senate Health Committee.

AB 1887 (Beall): This bill would have expanded mental health care coverage requirements for health care service plan contracts and health insurance policies issued, amended, or renewed after January 1, 2009 to include the diagnosis and treatment of a mental illness of a
person of any age. The bill would define mental illness as a mental disorder defined in the Diagnostic and Statistical Manual IV. The bill would specify that this coverage requirement does not apply to a health care benefit plan, contract, or health insurance policy with the California Public Employees' Retirement System (PERS) unless the board of the PERS elected to purchase such a plan, coverage, or policy.

Votes: Assembly 45-31, Senate 22-12
Status: Vetoed by the Governor. See veto message, Appendix P.

**AB 1894 (Krekorian):** This bill requires, on or after January 1, 2009, health care service plans and health insurers to provide coverage for human immunodeficiency virus antibodies and acquired immune deficiency syndrome tests, regardless of whether the testing is related to a primary diagnosis.

Votes: Assembly 47-29, Senate 21-15

**AB 1945 (De La Torre):** This bill would have required health insurers and health care plans to prove a policyholder intentionally lied on his or her application before retroactively cancelling their policy. Specifically, AB 1945 would have authorized carriers to conduct a "post-contract investigation" if the carrier obtains information that a subscriber, enrollee, policyholder, or insured may have intentionally misrepresented or omitted information on the application. This bill would have required carriers to continue to authorize and provide all medically necessary services until the effective date of a cancellation or rescission, and establish the effective date of cancellation or any rescission as no earlier than the date of certified notice to the covered person(s) that the independent review organization established in this bill has made a determination upholding the decision to cancel or rescind. In addition, AB 1945 would have required the Department of Managed Health Care and the California Department of Insurance to jointly establish, by regulation, standard information and health history questions that carriers must use in individual health care coverage application forms. This bill would have also required the standard information and health history questions developed for applications to contain clear and unambiguous information and questions designed to ascertain the health history of applicants, to be based on medical information reasonable and necessary for medical underwriting purposes, and to include a limitation on how far back in time from the application date the applicant was diagnosed and treated for the health condition specified in the question.

Votes: Assembly 55-17, Senate 22-14
Status: Vetoed by the Governor. See veto message, Appendix Q.
**AB 1962 (De La Torre):** would have required every individual or group policy of health insurance to provide coverage for maternity services, and exempted certain limited coverage, short-term, and supplemental health insurance products from this requirement.

Votes: Assembly 44-31, Senate 23-15
Status: Vetoed by the Governor. See veto message, Appendix R.

**AB 2220 (Jones):** This bill would have allowed parties to a contract negotiation between emergency room physicians and health care service plans or their contracting risk-bearing organization to, on a one-time basis per contract negotiation, invoke a mandatory mediation process to assist in resolving any remaining issues in the contract negotiations.

Votes: Assembly 45-32, Senate 21-15
Status: Vetoed by the Governor. See veto message, Appendix S.

**AB 2549 (Hayashi):** This bill would have prohibited a health care plan or health insurer from rescinding an individual health care plan contract or individual health insurance policy for any reason after 18 months following the issuance of the contract or policy.

Status: This bill was held in the Senate Appropriations on the Suspense File, due to the cost of implementation. The committee stated that the passage of this bill could potentially result in more rigorous up-front underwriting and an increase in the number of persons rejected for coverage, and thus eligible for public assistance programs such as the Managed Risk Medical Insurance Program.

**AB 2569 (de Leon):** This bill requires health plans and health insurers which offer, issue, or renew individual health coverage, to offer to any individual whose coverage was rescinded, other than those individuals whose information led to the rescission, new individual coverage, within 60 days, without medical underwriting. This bill also requires health plans and health insurers to provide 60 days for enrollees and insureds to accept the offer of new or continuation coverage, and requires the effective date of the coverage to be the date of the original contract or policy, with no lapse in coverage. In addition, AB 2569 establishes a duty on the part of agents, brokers, or solicitors who assist applicants in submitting applications to provide answers to health questions accurately and completely. This bill requires an agent, broker or solicitor to attest that, to the best of his/her knowledge, the information on the application is complete and accurate, and that he/she explained to the applicant, in easy-to-understand language, the risk to the applicant of providing inaccurate information and the applicant understood the explanation.

Votes: Assembly 65-9, Senate 25-14
AB 2805 (Ma): This bill would have required health care service plans and disability insurers selling health insurance, where the coverage is preferred provider organization coverage, to permit enrollees to assign benefits, so that the health plan or health insurer pays the provider directly for health care services rendered rather than reimbursing the enrollee or insured.

Status: This bill failed passage on the Assembly Floor.

AB 2839 (Huffman): This bill would have prohibited health plans and health insurers from requiring a provider, consultant, or attorney to execute an unfair or unreasonable agreement as a condition of entering into contract negotiations. In addition, this bill would have authorized the California Department of Managed Health Care and the California Department of Insurance to suspend or revoke a plan or insurer’s license and assess related administrative penalties.

Status: This bill was held on the Assembly Appropriations Committee’s Suspense File.

AB 2842 (Berg): This bill makes it an unfair business practice for a health insurance agent or broker, solicitor, solicitor firm, or representative of a health care service plan to sell, solicit, or negotiate the purchase of health care coverage products by the use of a marketing technique known as cold lead advertising when marketing a Medicare product. "Cold lead advertising" means making use of a method of marketing that fails to disclose in a conspicuous manner that the purpose of the marketing is health care service plan/health insurance sales solicitation, and that contact will be made by a health insurance agent or broker, solicitor, solicitor firm, or representative of a health care service plan. AB 2842 also makes it an unfair business practice for an agent, broker, solicitor, solicitor firm or health plan representative to sell or negotiate the purchase of health care products by the use of an appointment that was made to discuss a particular Medicare product or to solicit the sale of a particular Medicare product in order to solicit the sale of another Medicare product or other health care coverage products/health insurance products, unless the consumer specifically agrees in advance of the appointment to discuss that other Medicare product or other types of health care coverage/health insurance products during the same appointment.

Votes: Assembly 47-31, Senate 23-15

ABX1 1 (Núñez): This comprehensive bill would have required all California residents to carry a minimum level of health insurance coverage for themselves as well as for their dependents. Lower income Californians would have been eligible for subsidies and tax credits to offset their premium obligations. Employers, in turn, would have been required to spend an amount anywhere from 1% to 6.5% of payroll on healthcare based on a sliding scale – a state panel would have set the rate according to market conditions. Employers who
did not provide coverage would be required to pay an equal amount to the state, which would operate a purchasing pool. ABX1 1 would have expanded eligibility for the Medi-Cal and Healthy Families programs, and increased Medi-Cal provider rates for hospitals and physician services. In addition, the bill would have required health plans and insurers to offer and renew, on a guaranteed basis, individual coverage in five designated coverage categories, regardless of the age, health status, or claims experience of applicants, and established new modified community rating rules for the pricing of individual coverage. ABX1 1 contained provisions intended to reduce or offset a portion of the costs of health coverage as well as several new programs and initiatives related to prevention and promotion of health and wellness. Financing for the bill's provisions would have come from a variety of sources, including federal funds related to Medi-Cal and Healthy Families program expansions, fees from employers, revenues from counties, fees paid by acute care hospitals, premium payments from individuals, and funds from a new tobacco tax. Some of these financing measures would have been contained in a proposed ballot initiative. Implementation of the measure’s provisions would have been contingent upon a finding by the Director of Finance that sufficient state resources were available to implement the provisions.

Status: This bill was supported by Assembly Speaker Fabian Núñez, Senate President Pro Tempore Don Perata and Governor Arnold Schwarzenegger. ABX1 1 was strongly opposed by a large coalition, which included health insurers, the business community, California Nurses Association, and a number of labor interests. ABX1 1 ultimately failed passage in the Senate Health Committee.

**SB 349 (Perata):** This bill would have required health care service plans and health insurers to provide a paper copy of any bill directed to any subscriber, enrollee, policyholder, or certificate holder if the subscriber, enrollee, policyholder, or certificate holder does not consent to electronic billing.

Votes: Assembly 50-24, Senate 28-10
Status: Vetoed by the Governor. See veto message, Appendix T.

**SB 840 (Kuehl):** This bill would have established the California Healthcare System (CHS), a single payer system to provide health coverage to all residents. Specifically, the bill would prohibit any current law health care service plan or health insurance policy from being sold in California for services provided by CHS. SB 840 would establish the CHS in state government, to be administered by the California Healthcare Agency, an independent agency under the control of a newly appointed Healthcare Commissioner. The bill would require CHS to establish governance including: a) implement eligibility standards; b) adopt a specified scope of health benefits; c) establish formulas for setting health care expenditure budgets, both in the aggregate and for specific providers or care settings; d) pay claims
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accurately and timely; e) negotiate for prescription drug prices; f) provide evidence-based medical oversight; g) evaluate medical innovations, health planning, and quality measurement; and, h) resolve consumer disputes. SB 840 would also operationalize eligibility, including aggregating or maintaining various current law programs, including Medi-Cal, Healthy Families, and numerous local, indigent health care programs. Lastly, the bill would design benefit packages to provide a wider array of medical services than provided to many insured Californians under current law, and address numerous budgeting and fiscal issues related to coverage and financial viability.

Votes: Assembly 65-9, Senate 25-14
Status: Vetoed by the Governor. See veto message, Appendix U.

SB 981 (Perata): This bill would have prohibited non-contracting hospital emergency room physicians from directly billing enrollees of health care service plans for the difference between their fee and what the patient’s insurance plan pays. The bill would establish statutory standards and requirements for claims payment and dispute resolution related to non-contracting ER physician claims, including an Independent Dispute Resolution Process.

Votes: Assembly 42-26, Senate 21-17
Status: Vetoed by the Governor. See veto message, Appendix V.

SB 1198 (Kuehl): This bill would have required health care service plans and disability insurers selling health insurance to offer group coverage for durable medical equipment and services at the same levels of coverage as other basic health care benefits.

Votes: Assembly 47-27, Senate 27-9
Status: Vetoed by the Governor. See veto message, Appendix W.

SB 1300 (Corbett): This bill prohibited a contract between a health care provider and a health plan from containing a provision that restricts the ability of the health plan to furnish information on the cost of procedures or health care quality information to plan enrollees.

Status: The Senate refused to concur with the Assembly amendments; therefore, the bill failed on the Senate Floor.

SB 1379 (Ducheny): This bill requires fines and administrative penalties levied against health plans under the Knox-Keene Health Care Service Plan Act of 1975 to be placed in the Managed Care Administrative Fines and Penalties Fund and used, upon appropriation by the Legislature, for a physician loan repayment program and the Major Risk Medical Insurance Program, instead of being deposited in the State Managed Care Fund. SB 1379
also requires the Department of Managed Health Care to make a one-time transfer of fine and administrative penalty revenue of $10 million to the Major Risk Medical Insurance Program and $1 million to the loan repayment program.

Votes: Assembly 73-0, Senate 38-1

SB 1440 (Kuehl): This bill would have required health plans and health insurers to spend at least 85% of specified premiums and fees on patient care. As such, the bill would impose an 85% "medical loss ratio." SB 1440 would also define health care benefits to include: a) covered benefits, provided to patients or reimbursed by the payer; b) provider payments; c) disease management services; d) prescription drug management programs; and, e) medical advice provided by phone. This bill would also prohibit the inclusion of specified administrative costs contained in current law regulations as well as agent and broker commissions, dividends, profits, stock options, and fines levied by the Department of Managed Health Care or the California Department of Insurance. Lastly, SB 1440 would authorize health carriers to average medical loss ratio across insurance products and require carriers to report each year on the medical loss ratio of each individual and group health coverage product.

Votes: Assembly 46-31, Senate 23-15
Status: Vetoed by the Governor. See veto message, Appendix X.

SB 1522 (Steinberg): This bill would have required the Department of Managed Health Care and the California Department of Insurance to develop by April 1, 2009, through regulations, a system to categorize all individual health plans and health insurance policies and related notices related to the sale of and shopping for categorized plans. The bill would have established characteristics of a five-tier system which would include and address: a) minimum coverage to include physician, hospital, and preventive services; b) a continuum of coverage; c) reasonable benefit variation; d) consistent enforcement between regulators; e) a standard health maintenance organization product and a standard preferred provider organization product in each category; and, f) a maximum limit on out-of-pocket costs within each coverage category. Lastly, SB 1522 would have required health plans and insurers to submit by October 1, 2009 all individual health plans they would like to sell and requires annual reporting by regulators about subsequent enrollments.

Status: This bill failed on the Assembly Floor with a vote of 47-28. The bill was granted reconsideration, but was not taken up again by the Floor manager.

SB 1553 (Lowenthal): This bill prohibits health plans licensed by the Department of Managed Health Care from denying mental health treatment authorizations or claims payments because: a) a patient admission was voluntary or involuntary; or, b) due to the
mode of transportation to the health facility. In addition, this bill mandates that health plans establish a Web site to provide information about mental health services to enrollees.

Votes: Assembly 78-0, Senate 31-1

**SB 1563 (Perata):** This bill would have required the Department of Managed Health Care and the California Department of Insurance to establish the Autism Workgroup for Equitable Health Insurance Coverage to examine coverage of services related to pervasive developmental disorders or autism, and to make recommendations on ensuring that health plans and insurers provide appropriate and equitable coverage for pervasive developmental disorders.

Votes: Assembly 44-20, Senate 39-1
Status: Vetoed by the Governor. See veto message, Appendix Y.

**SB 1634 (Steinberg):** This bill would have required specified health care service plans and health insurers to cover orthodontic services deemed necessary for medical reasons for cleft palate procedures.

Votes: Assembly 64-3, Senate 29-3
Status: Vetoed by the Governor. See veto message, Appendix Z.
LABOR & EMPLOYMENT

**AB 2716 (Ma):** This bill would have provided that an employee is entitled to paid sick days which shall be accrued at a rate of no less than one hour for every 30 hours worked. Employers would be required to provide paid sick days, upon request, for diagnosis, care, or treatment of health conditions of the employee or an employee's family member, or for leave related to domestic violence or sexual abuse.

Status: This bill, strongly opposed by the employer community, was held in the Senate Appropriations Committee.

**AB 2918 (Lieber):** This bill prohibited, with few exceptions, the user of a consumer credit report from procuring a consumer credit report for employment purposes unless the information in the report is either substantially job related or required by law to be disclosed to, or obtained by, the user of the report.

Votes: Assembly 47-29, Senate 21-15
Status: Vetoed by the Governor. See veto message, Appendix AA.

**SB 1490 (Padilla):** This bill would have required a person employing labor in California to provide to an individual hired as an independent contractor a form developed by the Employment Development Department (EDD) that includes: (1) a notice that the individual has been hired as an independent contractor; (2) the factors EDD uses to determine whether a person is an employee or an independent contractor; (3) a statement explaining the impact that the individual's status has on his or her tax obligations and eligibility for labor and employment protections; and, (4) a notice of the individual's ability to request from EDD a determination as to whether the individual is an employee or independent contractor and the means by which this determination may be obtained. This bill would have also required an employer to maintain, for not less than two years, records identifying all persons hired as independent contractors and to make those records available for inspection upon request of EDD, a member of the Industrial Welfare Commission, or the Department of Industrial Relations. SB 1490 would have granted an individual hired as an independent contractor the right to request a determination by EDD as to whether he or she is an employee or independent contractor. Lastly, this bill would have given EDD the power to develop the required form, to process the request for a determination, and to take all steps reasonably necessary to carry out the duties relating to independent contractors specified in the bill.

Status: This bill was held in the Senate Appropriations Committee.
SB 1583 (Corbett): This bill would have provided that a person who, for money or other valuable consideration, knowingly advises an employer to treat a worker as an independent contractor in order to avoid employee status for that worker, is jointly and severally liable with the employer if the worker is not found to be an independent contractor. SB 1583 would have exempted a person who provides advice to their employer and attorneys authorized to practice law in California or another United States jurisdiction who provide legal advice in the course of the practice of law.

Votes: Assembly 44-30, Senate 21-14
Status: Vetoed by the Governor. See veto message, Appendix BB.
**LIFE INSURANCE & ANNUITES**

**AB 2137 (Saldana):** This bill requires insurers to maintain a record of all policy rescissions involving long-term care contracts and provide the Insurance Commissioner with information upon request. AB 2137 also authorizes the Insurance Commissioner, at his/her discretion, to make public the aggregate data collected on all rescissions involving long-term care policies. This data includes the reasons for rescissions, the length of time the policies or certificates were in force, and the age and gender of the insured persons.

Votes: Assembly 77-0, Senate 34-1  

**AB 2464 (Duvall):** This bill, sponsored by the Association of California Life & Health Insurance Companies, sought to implement the National Association of Insurance Commissioners model regulations governing annuity sales, including the provision of a disclosure document to a consumer that outlines features of the annuity contract, as well as a buyer's guide containing general information about annuities. A number of annuity products were excluded from the disclosure requirements of the bill including: a) registered and nonregistered variable annuities and other registered products; b) immediate annuities, and deferred annuities that contain only guaranteed elements; c) structured settlement annuities; d) charitable gift annuities; e) funding agreements; and, f) annuities used to fund an ERISA-covered pension plan, an employer-based 401(a), 401(k), or 403(b) plan; a governmental or church plan defined in Section 414 of the Internal Revenue Code, or a state or local government 457 plan, or a nonqualified deferred compensation plan established or maintained by an employer or plan sponsor.

Status: AB 2464 was ultimately placed on the Senate Inactive File due to the fact that amendments were added in the Senate Judiciary Committee that caused some concern for the sponsor and its member companies.

**AB 2465 (Duvall):** This bill exempts, from enhanced disclosure requirements, certain conversions of term life insurance to another type of life insurance offered by the same company. AB 2465 is a continuation of recent efforts to modernize life insurance statutes in California to be more consistent with updates to national insurance statutes.

Votes: Assembly 68-1, Senate 27-9  
**SB 1216 (Scott):** This bill requires long-term care insurers to pay interest on claims, accepted on or after December 1, 2008, that are not paid within the timeframes required by state regulations.

Votes: Assembly 76-0, Senate 40-0  

**SB 1224/SB 1543 (Machado):** was an effort by the life insurance industry, life settlement industry and life insurance agents to regulate life settlement transactions and curb predatory practices upon seniors and other consumers known as "stranger-originated life insurance," or STOLIs.

The bill, among other things, would have required the licensing of persons who transact life settlement contracts, made it unlawful to issue or market the purchase of a new life insurance policy for the purpose of settling the policy, prohibited individuals from entering into a life settlement during the initial two years of a policy, authorized the Insurance Commissioner to disapprove life settlement forms, required specified disclosures to consumers including a notice of possible alternatives to life settlements, regulated marketing practices, and prohibited predatory practices such as false and misleading statements.

Votes: Assembly 76-1, Senate 35-1  
Status: Vetoed by the Governor. See veto message, Appendix CC.

**SB 1434 (Correa):** This bill would have enacted the Interstate Insurance Regulation Compact (Compact) to develop uniform standards for life insurance, annuities, disability insurance, and long-term care insurance product lines that are binding on member states. SB 1434 would have provided that California would join the Compact and be bound by its insurance product rules and standards. In addition, this bill would have authorized California to opt out as to a particular uniform standard through enactment of legislation or regulation and would have provided that the Insurance Commissioner would serve as California's representative to the Compact.

Status: Testimony was taken on this bill in the Senate Banking, Finance & Insurance Committee; however, a vote was never taken. Therefore, the measure died in this committee.
LITIGATION

SB 1113 (Migden): This bill would have authorized a court, upon motion, to award attorneys fees, including expert witness fees, to a successful party against one or more opposing parties in any action that resulted in the enforcement of an important right affecting the public interest.

Votes: Assembly 42-33, Senate 22-14
Status: Vetoed by the Governor. See veto message, Appendix DD.

SB 1608 (Corbett): This bill requires a licensed architect, as a condition of license renewal, to complete courses regarding disability access requirements. This bill allows a defendant in a disability access lawsuit to obtain a temporary stay in the action in order to resolve the complaint. In addition, this bill requires that building sites be inspected by certified access specialists.

Votes: Assembly 77-1, Senate 37-0
METAL THEFT

AB 844 (Berryhill)/SB 691 (Calderon): These bills require all purchases by junk dealers and recyclers of specified metals to be paid for by check with a 3-day holding period. Those who establish themselves as regular customers (averaging 5 or more transactions a month over a 3-month period) can be paid in cash. In addition, a photograph and an address, or copy of the seller’s ID and thumbprint, must also be obtained. The bills require the junk dealer or recycler to obtain a photograph or video of the junk metal items being sold. AB 844 and SB 691 double the fines which may be imposed, in addition to jail sentences, for a junk dealer or recycler who fails to properly collect and maintain the required written records, or refuses to exhibit the written records as required (fines would be increased from $500 to $1,000 for a first offense, from $1,000 to $2,000 for a second offense and from $2,000 to $4,000 for a third or subsequent offense) and require that the court order the defendant to stop engaging in business as a junk dealer or recycler for not less than one year.

AB 844 Votes: Assembly 77-0, Senate 34-1

SB 691 Votes: 78-1, Senate 30-1

AB 1859 (Adams): This bill provides that any person who buys or receives, for purposes of salvage, any part of a fire hydrant or fire department connection that has been stolen, shall, in addition to any other penalty, be subject to a fine not to exceed $3,000.

Votes: Assembly 77-0, Senate 39-0

SB 447 (Maldonado): This bill requires every junk dealer and recycler to report certain information to a chief of police or sheriff, in the same manner required by secondhand dealers and coin dealers under current law. SB 447 requires junk dealers or recyclers to report daily, or on the first working day after receipt of purchases of property, on forms approved or provided by the Department of Justice, information pertaining to all tangible personal property which he or she has purchased, taken in trade, taken in pawn, accepted for sale on consignment, or accepted for auctioning.

Votes: Assembly 75-1, Senate 30-7
PRIVACY & IDENTITY THEFT

AB 372 (Salas): This bill amends the Consumer Credit Reporting Agencies Act to provide that a consumer credit reporting agency may, except in certain situations, charge a fee of no more than $5 to a consumer 65 years of age or older and no more than $10 to other consumers for each security freeze request, removal of the freeze, temporary lift of the freeze for a period of time, or temporary lift of a freeze for a specific party. AB 372 requires a consumer credit reporting agency to place a security freeze on a consumer's credit report no later than three (versus five) business days after receiving a request and allows a consumer to place a security freeze on his or her credit report by making a written request by regular (versus certified) mail to a consumer credit reporting agency.

Votes: Assembly 49-24, Senate 24-11

AB 1779/AB 1656 (Jones): These bills, subject to certain exceptions, prohibits a business or entity that accepts credit or debit cards from storing, retaining, sending, or allowing unauthorized access to a customer's payment-related information, except for legitimate business purposes. In addition, the bill strengthens California's data breach notification law by requiring that the breach notice contain certain information and, under certain circumstances, that a copy of the notice be sent to the state Office of Security and Privacy Protection.

AB 1656 follows last year's AB 779 (Jones), which was prompted by a couple of well-publicized examples of data breaches that compromised the payment-related data of millions of consumers, including credit card and debit card numbers. AB 779 passed out of both houses last year, but was ultimately vetoed by the Governor. This year, Assemblyman Jones attempted to address the concerns raised in the veto message with amendments that, among other things, permit storage of data for the sole purpose of processing on-going and recurring payments, permit notices to contain a "date range" instead of an exact date of breach and discovery, and removes provisions that would have required the business that held that data at the time of breach to reimburse the financial institution for the costs of sending notifications. With the amendments, the sponsors believed they had a better chance for a signature.

Votes: Assembly 74-1, Senate 34-3
Status: Vetoed by the Governor. See veto message, Appendix EE.
SB 364 (Simitian): This bill would have established additional notification requirements following a security breach of a computerized data system. SB 364 required any state agency or business selling goods and services and accepting payment by credit card, debit card, or other payment device to include the following in the notification to the owner or licensee of the agency's or business's computerized data system following a security breach: a) the date of the notice and name of the entity that maintained the breached data; b) the date or estimated date that the breach occurred, if known at the time of notification; c) a description of the categories of personal information believed to have been acquired by an unauthorized person; d) for contact purposes, a toll-free telephone number or, if the primary means of communicating with individuals whose personal information has been breached is electronic, an electronic mail address; and, e) the toll-free numbers of the major credit reporting agencies. SB 364 would have only become operative if AB 1656 has been passed and signed by the Governor.

Votes: Assembly 57-19, Senate 38-2
Status: Vetoed by the Governor. See veto message, Appendix FF.
AB 69 (Lieu): This bill requires mortgage loan servicers to report information regarding loan loss mitigation efforts to the Department of Corporations. The bill would allow the Commissioner of the Department of Corporations to seek and accept information provided on a voluntary basis by servicers not subject to the Commissioner's jurisdiction. The bill would require the Commissioner to post aggregated survey results on the Department of Corporation's Internet Web site.

Votes: Assembly 66-11, Senate 25-14

AB 180 (Bass): This bill prohibits a foreclosure consultant from entering into an agreement with a homeowner to assist them in recovering surplus funds after a trustee's sale. AB 180 extends the right to cancel a contract with a foreclosure consultant from three to five days after it has been signed and allows the owner to cancel by fax or e-mail. This bill also requires a foreclosure consultant to provide a copy of a completed contract in another language and prevents a foreclosure consultant from taking a power of attorney from an owner for any purpose. In addition, AB 180 requires foreclosure consultants to register with the Department of Justice and obtain a surety bond for each transaction in the amount of $100,000, and provides that violation of the registration requirements results in a fine and imprisonment up to one year.

Votes: Assembly 48-28, Senate 22-14

AB 512 (Lieber): This bill would have required supervised financial organizations that negotiate any material term of a contract or agreement, in one of five listed foreign languages, to provide either an approved disclosure form or a translated copy of the contract or agreement to the borrower, as specified. In addition, the bill would have subjected violators of this section to penalties for failure to comply, and would have given aggrieved borrowers certain rights to rescind contracts.

Status: This bill was held in the Senate Banking, Finance & Insurance Committee.

AB 529 (Torrico): This bill would have required a lender to send borrowers a notice if their loan was scheduled to switch from an initial fixed rate to an adjustable rate, or to be reset to a fully amortized loan. The notification would have been required to occur between 90 and 120 days before the loan was scheduled to switch or reset. In addition, this bill would have
required the notice to include at least the current payment, the month and year the loan would change, an example of the potential monthly payment after reset, and a phone number the borrower may contact for more information about the terms of the loan. This bill would have only applied to first-lien mortgage loans that are secured by residential real property that is improved with four or fewer residential units. Lastly, this bill would have required notification to be personally delivered or mailed.

Votes: Assembly 46-31, Senate 23-16  
Status: Vetoed by the Governor. See veto message, Appendix GG.

**AB 567 (Saldaña):** This bill would have established the Office of the Common Interest Development Bureau as a pilot project within the Department of Consumer Affairs to provide education, dispute resolution, and collect data about the most common types of disputes that occur in common interest developments.

Votes: Assembly 42-29, Senate 21-18  
Status: Vetoed by the Governor. See veto message, Appendix HH.

**AB 952 (Mullin):** This bill would have required a common interest development to establish a payment plan for all regular and special assessment imposed on units for those owner-occupants who request one.

Votes: Assembly 45-28, Senate 23-16  
Status: Vetoed by the Governor. See veto message, Appendix II.

**AB 1830 (Lieu):** This comprehensive bill would have enacted the Higher-Priced Mortgage Loan Law, codified a fiduciary duty for mortgage brokers, and authorized California’s mortgage regulators to apply certain federal mortgage lending laws and regulations to their licensees. The proposed Higher-Priced Mortgage Loan Law included provisions which defined “higher-priced mortgage loans” and set out certain prohibited practices relative to these loans and for those who service them.

Votes: Assembly 51-26, Senate 21-16  
Status: Vetoed by the Governor. See veto message, Appendix JJ.

**AB 1867 (Keene):** This bill would have allowed public agencies to accept bids on public contracts for appraisal services from an appraiser that is a member of any appraisal organization affiliated with the Appraisal Foundation.

Votes: Assembly 78-0, Senate 39-0  
Status: Vetoed by the Governor. See veto message, Appendix KK.
**AB 2204 (De La Torre):** This bill would have placed the following requirements on county officials when recording a deed or other instrument transferring title to residential property constructed prior to 1964: a) required the county recorder to submit a copy of all written covenants, conditions, or restrictions (CCRs) provided by the person requesting recordation to county counsel; b) required the county counsel to determine whether a CCR document contains an unlawful restriction based on race, color, religion, sex, sexual orientation, familial or marital status, disability, national origin, source of income, or ancestry; c) required county counsel to strike any unlawful restrictions from the original CCR documents, complete a Restrictive Covenant Modification (RCM) form, and return the form and CCR documents to the county recorder with information regarding counsel's determination; d) required the county recorder to record any modification document and inform the legal owner of the property of the filing of any RCM; e) specified that the only restrictions on the property are those recorded in the RCM, and deem the effective date of the RCM to be the effective date of the original document.

Status: This bill was held in the Senate Appropriations Committee, due to the high cost of implementation.

**AB 2259 (Mullin):** This bill would have provided that an owner of a separate interest in a common interest development is not subject to a provision in a governing document or a provision in an amendment to a governing document that prohibits the rental or leasing of their unit, unless that provision was effective prior to the date the owner acquired title.

Votes: Assembly 77-0, Senate 35-1  
Status: Vetoed by the Governor. See veto message, Appendix LL.

**AB 2359 (Jones):** This bill would have provided that an originator, beneficiary, trustee or assignee could not require as a condition of an agreement regarding a covered loan, subprime loan, or non-traditional loan, that the applicant waive any duties, remedies, or forums of California law with respect to a residential mortgage or mortgage foreclosure.

Status: This bill failed passage in the Senate Banking, Finance & Insurance Committee.

**AB 2454 (Emmerson):** This bill increases the liability limit for payments from the Department of Real Estate Recovery Account from $20,000 per transaction and $100,000 per licensee, to $50,000 per transaction and $250,000 per licensee.

Votes: Assembly 78-0, Senate 39-0  
**AB 2683 (Houston):** This bill would have regulated the provision of title insurance policies for certain new residential properties. AB 2683 would have required that in every sales contract for the purchase of real property on which is located a newly constructed residential structure or structures, the builder or developer must provide the purchaser with an owner's policy of title insurance that includes coverage for loss and cost of defense by reason of the assertion of mechanics' liens for works of improvement commenced prior to transfer of the property to the purchaser.

Status: This bill was held in Assembly Judiciary Committee.

**AB 2733 (Brownley):** This bill would have required that, if a residential property or subdivided land to be transferred or purchased is within a ¼ mile radius of an environmental hazard site, the hazard site and location must be identified on the natural hazard report filed with the Department of Real Estate.

Votes: Assembly 50-28, Senate 24-13
Status: Vetoed by the Governor. See veto message, Appendix MM.

**AB 2740 (Brownley):** This bill would have imposed additional duties on mortgage loan servicers. AB 2740 would have defined the terms “home loan” and “servicer.” This bill would have regulated how and when a fee may be imposed by a home loan servicer and required a servicer to respond within certain time periods to a borrower's request for information, documents, and dispute resolution and to promptly correct errors. AB 2740 would have also authorized the recovery of damages by a borrower or other party who is injured by a servicer's violation, and authorize the Commissioner of Financial Institutions, the Commissioner of Corporations, and the Attorney General to bring an action to recover damages.

Status: This bill failed passage in the Senate Banking, Finance & Insurance Committee.

**AB 2806 (Karnette):** This bill would have required common interest development board members and candidates for the board to disclosure whether or not they have completed an educational course on the laws of common interest developments and any other relevant educational qualifications to the board of directors and for the board of directors to provide that information to the membership of the homeowners association.

Votes: Assembly 45-24, Senate 27-11
Status: Vetoed by the Governor. See veto message, Appendix NN.
AB 2846 (Feuer): This bill provides that, if a dispute exists between a homeowner and the homeowner's association regarding any charge or sum levied by the association, and the amount does not exceed the jurisdictional limit for small claims court, the homeowner may, in addition to pursuing dispute resolution, pay the disputed amount under protest and commence an action in small claims court.

Votes: Assembly 76-0, Senate 37-0

AB 2880 (Wolk): This bill would have provided for increased regulation of mortgage brokers. AB 2880 would have provided that a mortgage broker has a fiduciary duty to the clients it serves and required a mortgage broker to post a surety bond of $100,000 to $500,000, depending on the volume of business. The bond could have been used for the recovery of expenses, fines, and fees levied by the Department of Real Estate for losses and damages incurred by consumers because of a broker's non-compliance with the provisions of this bill. In addition, this bill would have prohibited mortgage brokers from steering customers toward loans that are more costly than that for which the borrower qualifies, and placed limits on compensation that brokers may receive from the issuance of a conventional loan. AB 2880 would have prohibited a broker from marketing a loan refinancing to a customer within one year of the consummation of the first loan and specified that a broker violating these provisions is civilly liable for actual damages, plus attorney's fees that the court may award.

Status: This bill was held in the Assembly Appropriations Committee.

AB 2881 (Wolk): This bill requires any person who intends to offer subdivided lands within California for sale or lease to file with the Department of Real Estate an application for a public report consisting of, among other things, a statement regarding the property's location near designated farm or ranch land. AB 2881 also requires an expert, when responding to a request regarding natural hazards, to also determine whether the residential property is located within one mile of an agricultural area and to provide a specified notice to that effect.

Votes: Assembly 78-0, Senate 34-2

SB 127 (Kuehl): This bill would have required, in the case of a sale of real property, or a sale or lease with an option to purchase of a mobile home or manufactured home involving an agent, that the transfer disclosure statements be made as soon as practicable before the transfer of the title but not later than 10 calendar days after the execution of the purchase agreement. SB 127 would have also required, in the case of a sale of a separate interest in a
common interest development, that the necessary disclosures be made as soon as practicable before the transfer of the title but not later than 20 calendar days after the execution of the purchase agreement to purchase the title to the separate interest or execution of a real property sales contract or the opening of escrow, whichever is later. Lastly, the bill would have allowed the parties to a transfer or defer certain disclosure requirements pursuant to a written agreement.

Votes: Assembly 49-27, Senate 24-13
Status: Vetoed by the Governor. See veto message, Appendix OO.

**SB 133 (Aanestad):** This bill is the culmination of several years of effort by the title insurance industry, legislators, and the California Department of Insurance (CDI) to agree on legislation that establishes a registration program for marketing representatives of title insurers. SB 133 defines marketing activities that are illegal for title insurance inducements and would allow the CDI to discipline those marketing representatives who violate the law, including banning the representative from further selling title insurance.

Votes: Assembly 76-2, Senate 31-1

**SB 870 (Ridley-Thomas):** This bill allows the California Housing Finance Agency to more quickly establish a mortgage refinance system.

Votes: Assembly 78-0, Senate 32-4

**SB 1007 (Machado):** This bill requires a person engaging in business as an exchange facilitator to comply with certain bonding and insurance agreements and to notify existing clients whose relinquished or replacement property is located in this state of any change of control of the exchange facilitator. In addition, this bill requires an exchange facilitator to, among other things, act as a custodian for all exchange funds and to invest those funds in investments that meet a prudent investor standard. SB 1007 also prohibits exchange facilitators from engaging in certain prohibited acts, such as making material misrepresentations and conducting dishonest dealings.

Votes: Assembly 55-23, Senate 31-7
**SB 1053 (Machado):** This bill would have required every Department of Real Estate (DRE) licensee who makes, brokers, or services mortgages to notify the DRE on an annual basis that they are engaging in these activities. The bill would also have required supervising real estate brokers (those who supervise real estate salespersons and other real estate brokers) to submit detailed agreed-upon procedures engagement reports of their books and records to DRE annually.

Status: This bill was held in the Assembly Banking & Finance Committee.

**SB 1055 (Machado):** This bill allows a solvent taxpayer to exclude from his/her gross income an amount of qualified principal residence indebtedness discharged by the lender, which is in conformity with the federal Mortgage Forgiveness Debt Relief Act of 2007.

Votes: Assembly 76-1, Senate 39-0

**SB 1065 (Correa):** This bill allows cities and counties to use revenue bond funds to make or purchase refinanced home mortgages that are federally insured, federally guaranteed, or eligible to be purchased by the Federal National Mortgage Association or the Federal Home Loan and Mortgage Corporation.

Votes: Assembly 47-26, Senate 22-10

**SB 1137 (Perata):** This bill, among other things, requires lenders to give homeowners more and earlier warnings that their home loans are headed toward foreclosure. The bill requires lenders to contact homeowners in person or by phone to seek solutions before starting foreclosure proceedings. SB 1137 also allows tenants 60 days to move after a property is foreclosed and gives renters additional time to find a new place to live when they are being evicted because their landlord is losing the property. Lastly, it requires those who buy a foreclosed property to keep it maintained or face $1,000-a-day fines.

Votes: Assembly 55-18, Senate 32-8

**SB 1140 (Steinberg):** This bill adds the taking or appropriation of property by undue influence to the definition of financial abuse of an elder or dependent adult. It creates a presumption that a person has taken or appropriated property of an elder or dependent adult for wrongful use, if the person knew or should have known that his/her conduct is likely to be harmful to the elder or dependent adult. SB 1140 creates a new cause of action for
financial abuse against a person who takes the property of an elder or dependent adult who lacks capacity and then refuses to return the property after a demand for the return of the property was made by the elder or dependent adult.

Votes: Assembly 74-0, Senate 34-2

**SB 1286 (Machado):** This bill would have required that any private insurance policy maintained by an escrow agent be applied as primary coverage in the event of a loss covered by both the private insurance and the Escrow Agents Fidelity Corporation.

Status: This bill was held in the Assembly Banking & Finance Committee.

**SB 1448 (Scott):** This bill increases the maximum fines for an unlicensed person or corporation acting and/or advertising as a real estate broker or a real estate salesperson and requires any fine collected in excess of $10,000 from an individual or in excess of $50,000 from a corporation be deposited into the Real Estate Fraud Prosecution Trust Fund.

Votes: Assembly 70-1, Senate 32-4

**SB 1461 (Negrete-McLeod):** This bill requires real estate licensees, effective July 1, 2009, to disclose their license number on all first point of contact marketing materials and on all property purchase agreements where they act as agents. Under the bill, the Commissioner of the Department of Real Estate is authorized to adopt regulations identifying the specific materials in which a license number must be disclosed.

Votes: Assembly 78-0, Senate 35-0

**SB 1511 (Ducheny):** This bill allows a homeowners association, with respect to separate interests governed by the association, to record a request that a mortgagee, trustee, or other person authorized to record a notice of default regarding any of those separate interests mail to the association a copy of any trustee's deed upon sale concerning a separate interest. This bill requires the mortgagee or trustee to mail that information to the association within 15 business days following the date the trustee's deed is recorded. SB 1511 specifies that failure to mail the request, pursuant to that provision, would not affect the title to real property.

Votes: Assembly 78-0, Senate 39-0
SB 1604 (Machado): This bill requires that any private insurance policy maintained by an escrow agent be applied as primary coverage, in the event of a loss covered by both the private insurance and the Escrow Agents Fidelity Corporation.

Votes: Assembly 75-0, Senate 37-1

SB 1675 (Cox): This bill allows the California Department of Veteran Affairs to refinance existing home loans for veterans.

Votes: Assembly 76-0, Senate 38-0

SB 1737 (Machado): This bill allows the Department of Real Estate to prohibit an unlicensed person or real estate salesperson or broker from participating in any business activity relating to real estate for up to 36 months, prohibit an individual who provides an opinion on the value of a residential property to a lien holder of the property from selling, buying, renting, or offers to sell, buy, or rent the property for 12 months following the opinion, and requires prompt disclosure to all parties to the sale of a property when an agent acts as a mortgage broker, or when a mortgage broker acts as an agent.

Votes: Assembly 77-0, Senate 32-2
WORKERS’ COMPENSATION

**AB 419 (Lieber):** This bill would have expanded the number of public safety officers who qualify for the one-year of full-salary benefits allowed under Labor Code Section 4850 by eliminating a provision of law that limits those benefits to members of three specific retirement plans.

Votes: Assembly 43-23, Senate 21-15
Status: Vetoed by the Governor. See veto message, Appendix PP.

**AB 507 (De La Torre):** This bill would have required the Workers’ Compensation Insurance Rating Bureau to establish and update an Internet Website pursuant to regulations adopted by the Insurance Commissioner for the purpose of allowing any person to determine whether an employer is insured for workers' compensation. AB 507 would have required the Commissioner to adopt regulations to implement this provision by January 1, 2010, including a method by which an employer may dispute the accuracy of the information displayed on the Website. The bill would have also required the Website to be updated to reflect policy information as soon as reasonably feasible and require the Website to be operational no later than 180 days after the effective date of the regulations adopted by the Commissioner. This legislation would have precluded policy numbers and inception or expiration dates from being published on the website.

Votes: Assembly 77-0, Senate 28-7
Status: Vetoed by the Governor. See veto message, Appendix QQ.

**AB 1874 (Coto):** This bill restructures the State Compensation Insurance Fund (State Fund) by expanding the size of the governing board from 5 to 9 members, 7 of which would be appointed by the Governor. The Speaker would appoint one member of organized labor and the Senate President would appoint a member who has been a State Fund policyholder. The board members appointed by the Governor would receive $50,000 per year to serve on the board. The bill also declares the State Fund a state body, and therefore subject to the open meetings and open records act. Lastly, the bill requires the board to appoint a General Counsel, Chief Financial Officer, Chief Technology Officer and a Chief Investment Officer and set their salaries.

Votes: Assembly 46-31, Senate 24-15
AB 2081 (Coto): This bill would have prohibited kickbacks from a utilization review company to a third-party administrator as an inducement for the third-party administrator to refer a workers' compensation claim for utilization review. The bill would have also specified that in any proceeding where the question arises as to whether an employee was properly excluded from workers' compensation coverage, it would be the burden of the private corporation to establish by clear and convincing evidence that the employee was properly excluded, including establishing that the employee performs legitimate and substantial administrative or managerial functions as an officer or director of the corporation. Lastly, the bill would have required a corporation with employees that are excluded and who are not substantial shareholders are, as defined in Labor Code 3717(b) [owning 15 percent of the corporation's value], to file an annual report with the Department of Industrial Relations providing specified data on the excluded employees.

Votes: Assembly 76-1, Senate 21-17  
Status: Vetoed by the Governor. See veto message, Appendix RR.

AB 2091 (Fuentes): This bill requires that the Administrative Director of the Division of Workers’ Compensation contract with an independent consulting firm to perform a study to determine if there is adequate access for injured workers of pharmacy services and prescription drugs and, if necessary, adjust the reimbursement rates under the Medi-Cal fee schedule.

Votes: Assembly 76-0, Senate 40-0  

AB 2181 (Ruskin): This bill requires that the official notice given to an injured worker at the last payment of temporary disability indemnity must advise the employee of the availability of return-to-work process information published by the administrative director on the Internet Website for the Department of Industrial Relations. This bill deletes the requirement of filing an occupational injury or illness report with the Division of Labor Statistics and Research, and instead requires that: a) an insured employer files an occupational injury or illness report with the insurer, and that form must advise the employer of the availability of the return-to-work process information on the Internet Website of the Department of Industrial Relations; b) a self-insured employer, the state, or the insurer of an insured employee file an occupational injury or illness report in electronic form to the Workers’ Compensation Information System, which is administered by the Division of Workers' Compensation.

Votes: Assembly 78-0, Senate 39-0  
**AB 2692 (Hernandez):** This bill would have authorized the Insurance Commissioner to regulate workers' compensation insurance rates.

Status: This bill was held in the Assembly Insurance Committee.

**AB 2754 (Bass):** This bill adds methicillin-resistant staphylococcus aureus skin infection (staph infection) as an additional condition that is presumed to be work-related for safety members employed by counties providing retirement under the County Employees Retirement Act of 1937, making them eligible for work-related disability retirement benefits, and removes the existing five years of service eligibility for industrial disability retirement currently required in the 1937 Act for injuries caused by blood-borne pathogens.

Votes: Assembly 73-0, Senate 30-9

**AB 2969 (Lieber):** This bill would have required a workers' compensation utilization review physician to be licensed in California.

Votes: Assembly 47-31, Senate 25-14
Status: Vetoed by the Governor. See veto message, Appendix SS.

**AB 2987 (Benoit):** This bill would have specified that an injured worker is entitled to receive the supplemental job displacement benefit if he or she does not return to work within 60 days of the date that the first report received by a claims administrator from a treating physician, agreed medical examiner, or qualified medical examiner indicates the injured workers suffers from a permanent impairment.

Status: This bill was held on the Senate Floor Inactive File at the request of the author.

**AB 3055 (Committee on Insurance):** This bill permits the California Insurance Guarantee Association (CIGA) to issue bonds for an additional two years beyond the current sunset date, but would not change the total amount of bonds that CIGA could issue. This bill also allows CIGA to recover excess payments on a covered claim through arbitration or an administrative hearing.

Votes: Assembly 75-0, Senate 35-0
Status: Signed by the Governor. Chapter 80, Statutes of 2008.
**SB 726 (Alquist):** This bill would have remedied workers’ compensation claims denials for an unknown number of public safety professionals restricted to Santa Clara County for a time period (1995 thru 2001) prior to when California’s blood borne infectious disease presumption was established in 2002.

Status: This bill was held in the Assembly Appropriations Committee.

**SB 1115 (Migden):** This bill would have banned apportioning medical causation based on race, genetics, gender, religion, national origin, age, or marital status.

Votes: Assembly 46-31, Senate 23-13
Status: Vetoed by the Governor. See veto message, Appendix TT.

**SB 1145 (Machado):** This bill, an urgency measure, restructures the governance of the State Compensation Insurance Fund (State Fund). SB 1145 requires that the State Fund’s Board of Directors appoint a President as required by current law, and a Chief Financial Officer, a Chief Operating Officer, a Chief Information Technology Officer, a Chief Investment Officer, a Chief Risk Officer, and a General Counsel and authorize the board to set the salaries for each position. This bill also provides that the President shall manage and conduct the business and affairs of the State Fund under the general direction and approval of the board. SB 1145 specifies that the State Fund is subject to the Bagley-Keene Open Meeting Act and the California Public Records Act; however, underwriting, ratemaking, and other policy holder or claims-related proprietary information would not be subject to open meetings or public disclosure. Lastly, the bill prohibits board members and designated officers, upon leaving office, from soliciting or doing business with the State Fund for 1 year after leaving employment.

Votes: Assembly 78-0, Senate 40-0

**SB 1151 (Perata):** This bill would have required general acute care hospitals to establish patient protection and health care worker back injury prevention plans. SB 1151 would also have required each hospital to conduct a needs assessment to identify patients needing lift teams and lifting devices and require these hospitals to use lift teams and lift devices and to train workers on the appropriate use of lifting devices. Lastly, the bill would have provided that a health care worker who refuses to lift a patient could be disciplined only if the worker had been trained and appropriate devices available.

Votes: Assembly 45-29, Senate 22-15
Status: Vetoed by the Governor. See veto message, Appendix UU.
SB 1189 (Cedillo): This bill would have required that supplemental job displacement benefits be provided no later than 74 days after the termination of the temporary disability benefits. SB 1189 would have required an employer, if the percentage of permanent disability cannot be determined, to provide a voucher based on the reasonable estimate of the percentage of permanent disability. In addition, this bill would have required the employer, if the percentage of permanent disability is later determined to be higher than that estimate, to provide the additional voucher immediately upon determining the correct percentage of permanent disability. Lastly, this bill would have required an employer to notify the employee of the determination of the percentage of permanent disability and of any delay in determining the correct percentage of permanent disability benefits.

Status: This bill was held in the Senate Appropriations Committee.

SB 1271 (Cedillo): This bill affords certain privately-employed firefighters with the presumptions of compensability heretofore limited to public employees. Specifically, SB 1271 extends the existing workers' compensation "cancer presumption" to "active firefighting members" of a fire department that serves a United States Department of Defense and would add fire service coordinators of the Office of Emergency Services to the list of safety officers entitled to the presumption.

Votes: Assembly 66-10, Senate 31-4

SB 1309 (Calderon): This bill would have added language relating to payment for implantable medical devices in two separate code sections, with the intention of making it easier for workers' compensation carriers/payors to pay surgical implant providers directly for approved implantable devices and to allow medical facilities to opt out of maintaining inventory or performing billing with respect to these devices.

Status: This bill was held in the Senate Labor & Industrial Relations Committee.

SB 1338 (Migden): This bill would have deleted the sunset date on the law that authorizes a worker to predesignate his/her personal treating physician as the treating physician in the event of a workplace injury, and would delete the requirement that the Division of Workers' Compensation prepare a report evaluating the predesignation program.

Votes: Assembly 47-30, Senate 25-15
Status: Vetoed by the Governor. See veto message, Appendix VV.
SB 1467 (Machado): This bill provides that all meetings of the California Insurance Guarantee Association (CIGA) board of directors and its Investment and Audit committees be open to the public, requiring CIGA to provide 10-day advance notice of a meeting. Under this proposal, CIGA is authorized to hold closed sessions to allow the board members to consider confidential matters relating to association borrowing, pending insolvencies, personnel issues, privileged legal advice, or non-public information on an insurer member.

Votes: Assembly 76-0, Senate 39-0

SB 1717 (Perata): This bill would have increased the number of weeks that permanent disability benefits are paid, thereby increasing the amount of money received for each percent of disability.

Votes: Assembly 46-31, Senate 23-14
Status: Vetoed by the Governor. See veto message, Appendix WW.
To the Members of the California State Assembly:

I am returning Assembly Bill 2139 without my signature.

In 2005, I vetoed a substantially similar bill and encouraged the Legislature and insurance industry to address the narrow situation where those driving their own family members to medical appointments are not considered as driving during the course of employment.

This bill, however, did not incorporate that suggestion, and as such, does not address the fundamental fairness issue for consumers. Insurers must be able to manage the risk they assume and charge insureds appropriate rates to cover that risk. This bill would subject all drivers, including many that also work for similarly low wages as In-Home Support Service (IHSS) workers, to subsidize the increased premium costs associated with the increased risks these particular insured represent.

Without question, IHSS workers perform an invaluable service for California's most vulnerable citizens allowing them to remain in their own homes. That being said, there are a great number of invaluable services that are performed everyday that benefit millions of our citizens. This bill would cause just one classification of employment to be exempt from the insurance rating factors that affect all other consumers.

For these reasons, I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger
To the Members of the California State Assembly:

I am returning Assembly Bill 2825 without my signature.

The bill is essentially similar to a bill I vetoed last year. The provisions in this measure are duplicative of existing law and therefore unnecessary. Requiring automotive repair dealers to provide additional paperwork is unnecessarily burdensome and would increase expenses that could be passed on to the consumer, with no additional benefit.

For these reasons, I am unable to sign this bill.

Sincerely,

Arnold Schwarzenegger
To the Members of the California State Senate:

I am returning Senate Bill 60 without my signature.

This bill would require the Department of Motor Vehicles (DMV), within 240 days after the Secretary of Homeland Security approves the state's REAL ID implementation plan, to 1) issue drivers' licenses and identification cards that are in compliance with the federal REAL ID Act of 2005, and 2) issue drivers' licenses that permit driving only to those applicants who do not provide valid documentary evidence of lawful presence.

This bill does not specify how DMV would validate the identity of individuals who do not have documented proof that their presence in the United States is authorized under federal law. I have previously stated that the ability to verify documents used to establish an identity must include a way to determine whether an individual is who he or she purports to be.

Given the potential impact of the REAL ID Act on the public safety and homeland security of Californians, members of my Administration continue to work closely with the federal government on these issues. Until the REAL ID Act is implemented and the federal government adopts comprehensive immigration reform, it is inappropriate to move forward with state law in this area.

For these reasons, I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger
To the Members of the California State Senate:

I am returning Senate Bill 1167 without my signature.

The historic delay in passing the 2008-2009 State Budget has forced me to prioritize the bills sent to my desk at the end of the year's legislative session. Given the delay, I am only signing bills that are the highest priority for California.

This bill does not meet that standard and I cannot sign it at this time.

Sincerely,

Arnold Schwarzenegger
To the Members of the California State Senate:

I am returning Senate Bill 1361 without my signature. Drunk driving is a serious public safety hazard, and I fully support any meaningful efforts to curb this practice. Unfortunately, this bill would not diminish the occurrence of driving under the influence (DUI) in a meaningful way as it would restore the driving privileges of DUI offenders ’ many of whom have multiple DUI convictions ’ much sooner than currently allowed. Although ignition interlock devices have a good track record in preventing drunk driving, this bill would only mandate their installation in the vehicles of persons who would, under current law, be off the streets entirely.

For these reasons, I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger
BILL NUMBER:  AB 1565
VETOED DATE: 09/30/2008

To the Members of the California State Assembly:

I am returning Assembly Bill 1565 without my signature.

Existing law provides a narrow exception to insurance law in order to protect places of religious observance from having their property insured cancelled due to a hate crime against the property. This bill would expand this law to apply to any crime committed against the property.

While hate crimes against any property cannot be condoned in any way, existing law provides adequate protections for places of religious observance subject to hate crimes. Insurance law, as governed by the provisions of the voter-approved Proposition 103, provides that rates shall not be excessive, inadequate or unfairly discriminatory.

The expansion of law proposed by this measure so strictly limits how insurers may calculate premiums it is contrary to both the general spirit and application of Proposition 103.

For these reasons, I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger
To the Members of the California State Assembly:

I am returning AB 1906 without my signature.

While I remain concerned about the prevalence of identity theft in California, this bill is unnecessary. Existing law gives full regulatory authority to the California Department of Insurance over insurers, agents and brokers, and even out-of-state companies selling identity theft insurance in California.

For this reason, I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger
BILL NUMBER: AB 1910
VETOED DATE: 09/27/2008

To the Members of the California State Assembly:

I am returning Assembly Bill 1910 without my signature.

The historic delay in passing the 2008-2009 State Budget has forced me to prioritize the bills sent to my desk at the end of the year's legislative session. Given the delay, I am only signing bills that are the highest priority for California. This bill does not meet that standard and I cannot sign it at this time.

Sincerely,

Arnold Schwarzenegger
To the Members of the California State Assembly:

I am returning Assembly Bill 3054 without my signature.

The historic delay in passing the 2008-2009 State Budget has forced me to prioritize the bills sent to my desk at the end of the year's legislative session. Given the delay, I am only signing bills that are the highest priority for California. This bill does not meet that standard and I cannot sign it at this time.

Sincerely,

Arnold Schwarzenegger
To the Members of the California State Assembly:

I am returning Assembly Bill 2 without my signature.

The state's high risk pool was enacted in response to the failure of the health insurance market to provide coverage to individuals with pre-existing medical conditions, even if they could afford to pay higher premiums. California has subsidized this coverage for thousands of individuals since the inception of the program. Unfortunately, creating a mandate and assessing a fee based on covered lives in the individual market is not the answer.

Mandates such as this only serve to make health care more expensive for those who can least afford it. Most uninsured Californians cannot obtain coverage because they cannot afford the premiums, no matter whether they are high-risk or not. This bill would allow health insurance companies to pass the fee onto their enrollees, making it more expensive. This population is the most sensitive to price. Many must bear the entire cost of their coverage because they are self-employed or their employers do not offer coverage - a bill such as this only exacerbates their burden.

Comprehensive health care reform that guarantees issuance of coverage to all individuals, along with an individual mandate, cost-containment, prevention and shared responsibility is the only solution for our health care crisis.

I cannot support this bill because it provides a limited solution without addressing a much larger problem. Californians demand and deserve a solution to solve the broader challenge facing us all.

Sincerely,

Arnold Schwarzenegger
To the Members of the California State Assembly:

I am returning Assembly Bill 16 without my signature. The addition of a new mandate, no matter how small, will only serve to increase the overall cost of health care.

California currently has 44 mandates on its health care service plans and health insurance policies. While these mandates are well-intentioned, the costs associated with guaranteed coverage means that these costs are passed through to the purchaser and consumer. These mandates are a significant driver of cost. Every day, a growing number of employers and individuals are struggling to pay for their health care. We cannot afford to increase these costs without enacting other measures that improve efforts aimed at prevention, address affordability of care and share responsibility between individuals, providers, employers and government.

For these reasons, I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger
To the Members of the California State Assembly:

I am returning Assembly Bill 30 without my signature.

The addition of a new mandate, no matter how small, will only serve to increase the overall cost of health care. California currently has 44 mandates on its health care service plans and health insurance policies. While these mandates are well-intentioned, the costs associated with guaranteed coverage for a specific condition or treatment means that these costs are passed through to the purchaser and consumer. These mandates are a significant driver of cost. Every day, a growing number of employers and individuals are struggling to pay for their health care. We cannot afford to increase these costs without enacting other measures that improve efforts aimed at prevention, address affordability of care and share responsibility between individuals, providers, employers and government.

For these reasons, I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger
BILL NUMBER: AB 54  
VETOED DATE: 08/01/2008

To the Members of the California State Assembly:

I am returning Assembly Bill 54 without my signature.

Without comprehensive health care reform that fully addresses affordability, cost containment and shared responsibility, I cannot support health plan mandates that place additional costs on a system that makes coverage less affordable and accessible for Californians.

Under current law, acupuncture coverage is required to be offered by health plans. Approximately 86% of insured Californians already have access to such coverage because they have chosen to purchase such coverage.

These mandates, when taken collectively or individually, increase and shift health care costs to consumers and purchasers.

I continue to call on the Legislature to work with me in the remaining days of this legislative session to enact reforms that embrace prevention strategies, contain costs, and protect consumers.

Sincerely,

Arnold Schwarzenegger
To the Members of the California State Assembly:

I am returning Assembly Bill 368 without my signature.

This bill is similar to measures I vetoed in 2004 and 2006. The addition of a new mandate, no matter how small, will only serve to increase the overall cost of health care. Increasing the cost of coverage by mandating benefits, may ultimately leave more children without any coverage.

I would urge the Legislature to work with me next year on a comprehensive health care reform solution that provides no-cost or low-cost comprehensive coverage to all children below 300% of the federal poverty level, regardless of their documentation status.

For this reason, I am unable to sign this measure.

Sincerely,

Arnold Schwarzenegger
To the Members of the California State Assembly:

I am returning Assembly Bill 1155 without my signature.

Current law already gives broad authority to the Department of Managed Health Care (Department) to assess administrative penalties against health plans for a variety of violations, including unlawful provider payment practices of health plans.

The Department has taken a number of actions to resolve payment disputes between plans and providers. Since the creation of the Department’s provider complaint unit, it has assisted providers in recovering $5.8 million in reimbursements. The Department has also collected over $4.2 million in fines as a result of plans' failure to pay claims in a timely manner and based on other related violations of law.

It is ironic that the Department created an independent dispute resolution process as another mechanism to ensure the appropriate payment of non-contracting providers. Thus far, physicians have not utilized this process. Instead, many continue to engage in the practice of billing the patient when the plan and provider cannot agree on reimbursement. Providers should stop putting the patient in the middle of their payment disputes, and start developing a more comprehensive solution instead of a one-sided approach that AB 1155 represents.

For these reasons, I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger
To the Members of the California State Assembly:

I am returning Assembly Bill 1887 without my signature.

This bill is similar to a measure I vetoed last year. Without comprehensive health care reform that fully addresses prevention, affordability, cost-containment and shared responsibility, I cannot support one-sided mandates that place additional costs on our health care system. This mandate is estimated to increase health care costs for the insured population by over $110 million annually. Mandates like these are a significant driver of cost and mean some individuals may lose their coverage and not receive health care at all.

Californians deserve better when it comes to the health care they receive. They deserve comprehensive health care reform that places a priority on prevention and wellness, provides coverage for all, promotes shared responsibility and makes health care more affordable.

I remain committed to a comprehensive solution. For these reasons, I am unable to support this bill.

Sincerely,

Arnold Schwarzenegger
To the Members of the California State Assembly:

I am returning Assembly Bill 1945 without my signature.

I believe that unfair rescissions are a deplorable practice. My Department of Managed Health Care has fought for - and won - significant settlements with the industry that have significantly changed the marketplace and reinstated coverage for thousands of consumers.

The Department's settlements are unprecedented and have fundamentally changed the way health plans operate in this state. The individual insurance market is fragile, and we must balance the need for strong consumer protections with the recognition that unintended consequences can tighten this market even more. Unfortunately, the provisions of this bill will only increase costs and further restrict access for over 2 million Californians that currently obtain coverage in the individual market.

My Administration proposed comprehensive legislation to address this problem. In particular, my proposal contained several strong consumer protections that this bill fails to address. My proposal established a standard application to remove any possibility of plans using different health questions to disadvantage applicants. This bill does not contain that protection. My proposal required agents and brokers to sign under penalty of perjury that they had not altered an applicant's answers. Penalties were levied if they engaged in this unscrupulous behavior. This bill does not contain that protection. My proposal clearly outlined the rules that plans and insurers had to follow when considering whether to offer a contract to an applicant. This bill does not contain that protection. My proposal didn't allow plans to rescind or cancel if a doctor failed to inform a patient of a medical condition. This bill does not contain that protection. My proposal contained a two-year lookback protection that prevented plans from rescinding or cancelling after two years. This bill does not contain that protection. My proposal protected family members and required coverage to be continued without additional underwriting or increase in premiums. This bill does not contain that protection.

This bill was written by the attorneys that stand to benefit from its provisions. In rushing to protect a right to litigate, the proponents failed to consider the real consumer protections that are needed.

I would call on the Legislature next year to work with my Administration on real legislation that enacts important protections for consumers without increasing premiums and reducing coverage for those who need it most.

For these reasons, I cannot support this bill.

Sincerely,

Arnold Schwarzenegger
To the Members of the California State Assembly:

I am returning Assembly Bill 1962 without my signature. This bill is nearly identical to a measure I vetoed in 2004. My concerns with this bill remain unchanged. A mandate, no matter how small, will only serve to increase the overall cost of health care. I want to decrease the number of uninsured Californians. Increasing the cost of coverage moves in the opposite direction.

The choice is difficult - protect access to affordable health insurance when costs continue to increase for employers and individuals - or mandate that every person who pays for their own health insurance must buy coverage for maternity services.

Until the goals of prevention, affordability and the concept of shared responsibility are addressed through comprehensive health care reform, I must continue to veto one-sided mandates that only increase costs to the overall health care system.

For this reason, I am unable to sign this bill.

Sincerely,

Arnold Schwarzenegger
To the Members of the California State Assembly:

I am returning Assembly Bill 2220 without my signature.

I applaud the author for seeking to address one of the most important consumer issues facing patients today. This bill attempts to change the market dynamic in a way that encourages contracts between health plans and providers. It is a good starting point. Unfortunately, it does not contain the comprehensive solution that patients need and deserve when it comes to addressing the disgraceful practice of balance billing.

I believe the author and Administration can work together to solve this issue next year. I look forward to our combined efforts that will take the patient out of the middle of these payment disputes.

Sincerely,

Arnold Schwarzenegger
To the Members of the California State Senate:

I am returning Senate Bill 349 without my signature.

Health plans and insurers should be encouraging their enrollees to use electronic billing and automatic payment of premiums. As the health care system increasingly moves to an electronic age, there should not be statutory encouragement for retaining a paper-based system.

I embrace health care technology and all the efficiencies that it brings to providers and patients. It was an important component in my comprehensive health care reform plan and I would encourage the Legislature to work with me on adopting such a plan.

For this reason, I am unable to sign this bill.

Sincerely,

Arnold Schwarzenegger
To the Members of the California State Senate:

I am returning Senate Bill 840 without my signature.

According to the Legislative Analyst's Office, the bill is estimated to cost $210 billion in its first full year of implementation and cause annual shortfalls of $42 billion. To place this in proper perspective - our state budget deficit this year started at $24.3 billion.

I cannot support a bill that places an annual shortfall of over $40 billion to our state's economy.

Sincerely,

Arnold Schwarzenegger
To the Members of the California State Senate:

I am returning Senate Bill 981 without my signature.

This bill does not solve the problem facing California patients and only serves to highlight one of the many reasons I introduced my comprehensive health care reform proposal. Californians are paying a hidden tax on their health care which subsidizes care for the uninsured and allows providers to shift costs when they are not fully reimbursed by their payers. The insured population bears the brunt of this hidden tax and the larger it gets, fewer people are able to afford coverage.

This bill, in essence, asks for California to embrace this cost-shift, reward non-contracting physicians by assuring their continued financial slice of the pie, and allow the status quo to continue. I cannot agree to a measure that is a piecemeal approach to our broken health care system.

Our health care system relies on physicians, hospitals and health plans to work together. The patient that pays health insurance premiums should not be part of a payment dispute between these sophisticated market players. It is unfortunate that this bill takes sides in the dispute within the health care industry instead of taking the side of patients.

Until the Legislature can send me legislation that removes that patient from all disputes involving these parties, I direct my Department of Managed Health Care to aggressively continue in its efforts to identify unfair payment practices and keep patients from being caught in the middle.

Sincerely,

Arnold Schwarzenegger
To the Members of the California State Senate:

I am returning Senate Bill 1198 without my signature. The addition of a new mandate, no matter how well-intentioned, will only serve to increase the overall cost of health care. This mandate is estimated to increase premiums for private employers by almost $120 million dollars annually. Enrollee contributions would increase by over $32 million annually. The hardest hit population would be the small group market - the small businesses that are most sensitive to price changes and struggling to keep their employees covered at all.

We cannot afford to increase these costs without enacting other measures that improve efforts aimed at prevention, address affordability of care and share responsibility between individuals, providers, employers and government.

For these reasons, I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger
To the Members of the California State Senate:

I am returning Senate Bill 1440 without my signature.

This bill represents exactly what I did not want to see this year – a one-sided, piecemeal approach to health care reform. Californians deserve a financially sustainable and comprehensive health care reform plan that promotes prevention; shares responsibility between individuals, employers, providers and government; covers all Californians; contains cost; and keeps our emergency rooms open and operating.

My comprehensive health care reform contained a similar provision to what is proposed in this bill. However, my plan also contained a great deal more. I cannot support individual reform efforts that do not include the other essential components.

Taken in its isolated and singular fashion, this bill may weaken our already-broken system.

For these reasons, I am unable to sign this bill.

Sincerely,

Arnold Schwarzenegger
To the Members of the California State Senate:

I am returning Senate Bill 1563 without my signature.

The provisions of this bill are currently being accomplished administratively through the Department of Managed Health Care. Therefore, this bill is unnecessary and duplicative of existing work.

For this reason, I am unable to support this bill.

Sincerely,

Arnold Schwarzenegger
BILL NUMBER: SB 1634
VE TOED DATE: 09/30/2008

To the Members of the California State Senate:

I am returning Senate Bill 1634 without my signature. This bill, while well-intentioned, will only serve to increase the overall cost of health care. The costs associated with new mandates means that those costs are passed through to the purchaser and consumer. They are a significant driver of cost. Every day, a growing number of employers and individuals are struggling to pay for their health care. We cannot afford to increase these costs without enacting other measures that improve efforts aimed at prevention, address affordability of care and share responsibility between individuals, providers, employers and government.

For these reasons, I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger
APPENDIX AA

BILL NUMBER: AB 2918
VETOED DATE: 09/30/2008

To the Members of the California State Assembly:

I am returning Assembly Bill 2918 without my signature.

This bill would prohibit the use of consumer credit reports for employment purposes unless the information is either substantially job related, as defined, or required by law to be disclosed to or obtained by the user of the report.

This bill would significantly increase businesses' exposure to civil actions over the use of credit checks. Further, the bill would increase administrative costs to those employers who must legitimately use credit reports as a screening tool by requiring that the employer first abide by its onerous requirements. California employers and businesses have inherent needs to obtain information about applicants for employment. The bill would become a new employer obstacle to the use of available information needed to make hiring decisions.

For these reasons, I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger
To the Members of the California State Senate:

I am returning Senate Bill 1583 without my signature.

Existing law governing the difference between an employee and an independent contractor is confusing to employers. As the Legislature has failed to address this confusion, many employers turn to consultants for help in determining how best to classify individuals for employment purposes. The new liability imposed by this bill will make consultants wary of providing services to businesses, leaving these employers without any guidance in an increasing litigious environment. I encourage the Legislature to focus on addressing the confusion caused by current law, not punishing those trying to create and grow jobs in California.

Sincerely,

Arnold Schwarzenegger
To the Members of the California State Senate:

I am returning Senate Bill 1543 without my signature.

This bill would enact the Life Settlement Consumer Protection Act of 2008. Specifically, this bill would create a regulatory framework for life settlements in California. Life settlements are complex financial transactions in which a life insurance policy owner possessing an unneeded or unwanted life insurance policy sells that policy to a third party for more than the cash value offered by the life insurance company. Life settlements have grown increasingly popular in recent years, especially with older Californians, raising questions of whether adequate regulations are in place to oversee the industry. While life settlement companies are already regulated by the California Department of Financial Institutions, proponents of this measure believe the Department of Insurance should play a greater role in regulating these companies as well.

Although I share the proponents' goal to ensure that life settlement transactions are properly regulated, I cannot sign this measure at this time. The provisions of this bill were amended into it very late in the legislative session. While many of the provisions were agreed to by all the parties involved, some of the provisions are still subject to worthwhile debate. For instance, it is my desire to ensure that life settlement transactions contain proper notification and disclosure to consumers. I am also concerned that the final version of the bill may unfairly exclude some companies from participating in the legitimate life settlement market.

I am asking my staff to convene meetings this fall with all the stakeholders to review the provisions of this bill and consider what, if any, changes are needed to ensure that any regulatory framework put into statute appropriately protects seniors, provides consumers with adequate disclosure, and does not unfairly discriminate against legitimate companies trying to compete in the life settlement business. It is my belief that any outstanding issues can be resolved and we can quickly pass any necessary legislation in 2009.

For these reasons I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger
BILL NUMBER: SB 1113  
VETOED DATE: 09/30/2008

To the Members of the California State Senate:

I am returning Senate Bill 1113 without my signature.

This bill would significantly expand the cost recovery for successful plaintiffs under the private attorney general statute to include the recovery of costs and expert witness fees. Broadening already substantial awards could encourage more unfounded litigation and exponentially increase liability in potentially unjustifiable situations. During a year where the economy is struggling to get back on its feet, the effects could be devastating.

For these reasons, I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger
To the Members of the California State Assembly:

I am returning Assembly Bill 1656 without my signature.

As I stated in last year's veto of a similar bill, this bill attempts to legislate in an area where the marketplace has already assigned responsibilities and liabilities that provide for the protection of consumers.

Clearly, the need to protect personal information is increasingly critical as routine commercial transactions are more and more exclusively accomplished through electronic means. However, by requiring notification even where no information was obtained improperly, this bill would likely result in significant costs to businesses and to the state. In addition, by locking in today's best practices, AB 1656 would assure that the law remains static in the face of future, unseen concerns. Moreover, this bill would create a disincentive for businesses to adhere to new, more comprehensive, industry standards.

Existing law already contains a comprehensive penalty scheme for identity theft that details with great particularity the numerous ways in which it can occur, and imposes criminal sanctions. These provisions cover both identity thieves and retailers who are complicit in their crimes. If existing penalties are inadequate to properly deter would-be identity thieves, the proper response would be to enhance these penalties.

For these reasons, I am unable to sign this bill.

Sincerely,

Arnold Schwarzenegger
To the Members of the California State Senate:

I am returning Senate Bill 364 without my signature.

California's landmark law on data breach notification has had many beneficial results. Informing individuals whose personal information was compromised in a breach of what their risks are and what they can do to protect themselves is an important consumer protection benefit. The law has also provided a window on information privacy and security practices that has led organizations to make many improvements.

Unfortunately, this bill could lead consumers to believe that all data breaches result in identity theft. Further, this would place an additional unnecessary cost on businesses without a corresponding consumer benefit.

For these reasons I am unable to sign this bill.

Sincerely,

Arnold Schwarzenegger
To the Members of the California State Assembly:

I am returning Assembly Bill 529 without my signature.

This bill would require mortgage servicers to provide to consumers of residential loans a notice that a fixed rate loan is scheduled to switch to an adjustable rate loan, or a payment option loan is set to reset to a fully amortizing loan, between 90 and 120 days before the change occurs.

While it appears that the purpose of the bill is to ensure that borrowers are informed in advance of changes in their loan payments to avoid defaults, if implemented it could have the opposite effect. This bill would likely confuse mortgage holders by providing them with multiple notices containing conflicting future payment amounts. By providing mortgage holders with a notice that indicates an "example" payment amount, at or about the same time that they receive another notice that indicates an "actual" payment amount, the multiple notices could cause them to question the real payment amount. As a result, mortgage holders might base their decision to seek assistance with their existing loan or refinance that loan based on erroneous or confusing information.

For these reasons, I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger
To Members of the California State Assembly:

I am returning Assembly Bill 567 without my signature.

This bill seeks to regulate common interest development associations by establishing a Common Interest Development Bureau within the Department of Consumer Affairs and impose a $10 per unit biennial fee on such associations to fund the bureau's operations.

Creating another layer of government bureaucracy is costly and unnecessary. Numerous bills have been signed into law in the past few years to address the various problems cited by the author. There is little or no evidence that these measures have proven ineffective in addressing the current situation. Today, several other government agencies are handling issues raised with these associations. As such, I can see no reason to create an entirely new state entity at this time.

For these reasons I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger
To the Member of the California State Assembly:

I am returning Assembly Bill 952 without my signature.

This bill would require the board of directors of a homeowner association (HOA) in a common interest development (CID) to provide a payment plan to an owner who is delinquent in paying his or her assessments, if the homeowner can establish a need for working out a payment plan.

This measure will likely be impractical and burdensome for HOAs to actually implement. HOAs enjoy substantial authority in the governing rules that are granted by a vote of the homeowners and can be altered by such a vote. It is more appropriate for each HOA to recognize the unique needs of their homeowners in resolving these issues than passing a one size fits all statewide solution.

For these reasons, I am unable to sign this measure.

Sincerely,

Arnold Schwarzenegger
To the Members of the California State Assembly:

I am returning Assembly Bill 1830 without my signature.

In an attempt to address various issues to come out of the subprime loan meltdown, this bill would enact the Higher-Priced Mortgage Loan Law, restrict the use of various loan features, codify a fiduciary duty for mortgage brokers, and authorize California’s mortgage regulators to apply specified federal mortgage lending laws and regulations to their licensees.

The goals of this bill are to be lauded and the work and effort that went into the bill commended. However, I believe the approach of the bill to address the subprime crisis overreaches and may have unintended consequences.

First, its provisions will only apply to state regulated entities, as federally regulated entities will be exempt. This will create an uneven playing field, putting state regulated entities at a competitive disadvantage and consumers will have unequal protections under the law. Secondly, this bill allows for a private right of action and allows a plaintiff to recover attorney fees if he or she prevails. The bill does not allow a defendant to recover costs if he or she prevails. This provision will likely lead to increased litigation based on de minimis violations as plaintiffs attorneys will have much to gain and little to lose.

Many changes have already occurred to curb some of the past lending and brokering abuses. Last year, I signed SB 385 strengthening underwriting criteria to ensure that borrowers can afford loans. The Federal Reserve Board has implemented amendments to the Truth in Lending Act (Regulation Z) to regulate advertising practices and provide additional protections to the lending marketplace. I recently signed SB 1137 to provide homeowners with additional protections against foreclosure and to expand the rights of tenants. Finally, the President recently signed the Housing and Economic Recovery Act, which imposes new oversight requirements on loan originators and contains many other provisions to assist in economic recovery. All of these changes need time to take effect. As a result, further legislation is unnecessary until we can evaluate the effect of the reforms that have already been enacted.

I am directing the appropriate agencies within my Administration to implement any of the appropriate portions of this bill that can be done so administratively. I encourage the Legislature to work with my Administration to implement the many pieces of this legislation that could be helpful to consumers.

For these reasons, I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger
To the Members of the California State Assembly:

I am returning Assembly Bill 1867 without my signature.

This bill would require public agencies to accept bids for appraisal projects from any appraiser who is a designated member of any appraisal organization that is a member of the Appraisal Foundation and provides an appraiser who was not allowed to submit a bid to a public agency may sue that agency for equitable relief.

I vetoed a substantially similar bill last year on the grounds that it would create a specific cause of action which could result in significant litigation costs for public agencies. This bill does little or nothing to resolve my concerns regarding the threat of increased litigation or costs to the state.

For this reason, I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger
To the Members of the California State Assembly:

I am returning Assembly Bill 2259 without my signature.

This bill would allow a homeowner in a common interest development (CID) to retain the right to rent or lease his or her unit, if the right existed at the time of ownership unless the owner relinquishes those rights in writing.

The supporters of this bill stress that the bill will protect the property rights of the owners of property within a CID governed by a home owner association (HOA) by preserving the conditions under which the property was purchased. This view stresses that these conditions are essentially a contract between the buyer and the HOA. However, the converse of this argument is that owners have their property rights limited when they are prevented from renting or leasing their property when they are restricted by this law and the subsequent actions taken by HOAs.

This bill alters the basic tenets under which CIDs and HOAs are formed and operated. While my support of property rights is unwavering, the CID creates a unique community model that is unlike the standard single family home in a traditional neighborhood. Property owners and residents that purchase and live in a CID governed by an HOA have agreed to live under a common set of rules and guidelines governed by a democratic process. It is best, as current law allows, for the owner-members of the HOA to determine what is best for their communities.

For these reasons, I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger
To the Members of the California State Assembly:

I am returning Assembly Bill 2733 without my signature.

This bill is unnecessary as current law already requires sellers of real property to notify buyers of the presence of environmentally hazardous substances, materials or products that are on the property, if the seller has knowledge of such contamination. Current law provides adequate protection for buyers and sellers of real property. This bill would make it even more difficult for people to sell property in the State, and is inappropriate in light of the stagnant real estate market currently being experienced in California.

For these reasons, I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger
To the Members of the California State Assembly:

I am returning Assembly Bill 2806 without my signature.

This bill would mandate that current homeowner association (HOA) board members and candidates running for a seat on a HOA board to provide information to the board indicating whether he or she has completed an educational course on the law of common interest developments. The bill would also require the HOA to include this information in the ballot materials for the board member election along with any other relevant education or qualifications the candidate wishes to make known.

While it is important to know a candidate's credentials and qualifications to sit on a HOA board, existing law already allows for such, making this bill unnecessary. The Davis Stirling Act requires that any HOA board candidate be given access to a HOA's media, newsletters or internet web site during an election cycle to provide opinions relevant to the running of the HOA and information about his or her qualifications. This bill creates an unnecessary redundancy.

For this reason, I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger
To the Members of the California State Senate:

I am returning Senate Bill 127 without my signature.

The historic delay in passing the 2008-2009 State Budget has forced me to prioritize the bills sent to my desk at the end of the year's legislative session. Given the delay, I am only signing bills that are the highest priority for California. This bill does not meet that standard and I cannot sign it at this time.

Sincerely,

Arnold Schwarzenegger
To the Members of the California State Assembly:

I am returning Assembly Bill 419 without my signature.

This bill would increase workers\' compensation costs to some cities and counties by requiring them to provide certain injured workers a leave of absence without loss of salary in lieu of regular temporary disability payments. While this benefit is currently conferred on some sworn peace officers, this bill would expand it to park rangers, community college police, and many others. Eligibility for this benefit is best left to locals, not the state, to determine.

Sincerely,

Arnold Schwarzenegger
To the Members of the California Assembly:

I am returning Assembly Bill 507 without my signature.

This bill would establish an Internet website to enable any person to identify whether or not an employer is insured for workers' compensation. This is a laudable goal. However, I am concerned that the website would not be required to post the effective dates of coverage of a policy, thereby significantly diminishing the value of the information. More importantly, the bill does not contain any specified timing in which the information must be updated, potentially leading to inaccurate information on the website.

For these reasons, I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger
APPENDIX RR

BILL NUMBER: AB 2081
VETOED DATE: 09/30/2008

To the Members of the California Assembly:

I am returning Assembly Bill 2081 without my signature.

This bill would impose a burden of proof standard and a reporting requirement on employers when the employer wishes to exclude employees from workers' compensation coverage because of the employees' status as officers or directors of a corporation. The bill also adds new disclosure requirements and prohibitions on rebates and similar inducements in the utilization review process to the Labor Code.

The laudable goal of reducing misclassification of employees as exempt shareholder officers does not warrant abandoning the usual burden of proof of preponderance of the evidence. There is no other workers' compensation statute that uses this heightened burden of proof. Enforcement action specifically targeting unscrupulous practices is a more appropriate way of addressing the problem than establishing a "clear and convincing" burden of proof.

The bill's provisions relating to prohibited payments by claims administrators in relation to utilization review are deficient as they apply only to entities defined as claims administrators and not to natural persons who are claims adjusters. Additionally, the requirement to file annual reports regarding denials of treatment will impose heavy administrative and economic burdens on utilization review entities.

For these reasons, I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger
To the Members of the California State Assembly:

I am returning Assembly Bill 2969 without my signature.

This bill would require a physician conducting utilization review in the workers' compensation system to be licensed in California. Such a requirement would be inconsistent with how utilization review is conducted in other areas of medicine in and not in line with best practices nationwide. The proponents of this measure have not demonstrated a need for this disparity in treatment.

Sincerely,

Arnold Schwarzenegger
APPENDIX TT

BILL NUMBER: SB 1115
VETOED DATE: 09/30/2008

To the Members of the California State Senate:

I am returning Senate Bill 1115 without my signature.

This bill is intended to provide that race, religious creed, color, national origin, age, gender, marital status, sex, or genetic predisposition shall not be considered a cause or other factor of disability when determining apportionment of disability for the purposes of workers' compensation. While I support the intent of this measure, I do not believe it is necessary. Current law, as well as court rulings, adequately protects injured workers from inappropriate application of apportionment statutes. In addition, I am concerned that the manner in which this bill is worded could inadvertently create new ambiguities in the law and result in increased litigation.

For these reasons I am unable to sign this bill.

Sincerely,

Arnold Schwarzenegger
To the Members of the California State Senate:

I am returning Senate Bill 1151 without my signature.

This bill will seriously compromise public safety by prohibiting some of the most serious juvenile offenders from being treated as adults in the criminal justice system. This measure will weaken provisions of juvenile justice reform as passed by the voters by a wide margin of support in March 2000. Proposition 21, entitled the Gang Violence and Juvenile Crime Prevent Act, was passed by voters to toughen the law against dangerous juvenile criminals and to hold them fully accountable for their actions. Current law permits serious juvenile offenders to be tried in the adult criminal court if certain conditions are met.

SB 1151 will make it difficult to send juveniles with serious crimes to be tried in adult court as contemplated by the voters. Case law on this issue is clear and provides the necessary judicial discretion to ensure appropriate juvenile offenders are directed out of the adult system. This bill will have the effect weakening the law as it relates to criminal liability for murderers and rapists, and accomplices to serious crimes such as carjacking, and subject those convicted to early release.

Sincerely,

Arnold Schwarzenegger
To the Members of the California State Senate:

I am returning Senate Bill 1338 without my signature.

This bill repeals the sunset date for the provision of workers' compensation law that allows a small number of employees to predesignate a personal physician to treat work-related injuries.

The proponents of this measure have failed to demonstrate why this law should be extended. My workers' compensation reforms struck the appropriate balance between the employer and the employee in selecting the physicians that treat injured workers. There is no reason a select few employees should be allowed to opt out of a system that is working well for everyone else.

The law on predesignation does not sunset until 2009. If the proponents wish to try again next year to repeal the sunset, I encourage them to better demonstrate the need for this change.

For these reasons, I am unable to sign this measure.

Sincerely,

Arnold Schwarzenegger
To the Members of the California State Senate:

I am returning Senate Bill 1717 without my signature.

The workers' compensation reforms I enacted in 2004 have worked. Costs to employers have decreased and return-to-work rates for injured workers have increased. Our work, however, is not done.

Medical costs in the workers' compensation system are climbing, leading the Workers' Compensation Insurance Rating Bureau to recommend a 16 percent increase in premiums starting next year. Given this fact, we must proceed cautiously before adding any other costs to the system. As such, the billion dollar benefit increase proposed by this bill cannot be justified at this time.

For these reasons, I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger