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INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

VIA OVERNIGHT DELIVERY

September 3, 2009

The Honorable Jerry Brown  
Attorney General  
State of California  
1300 I Street  
Sacramento, CA 95814

Attention: Ms. Krystal Paris, Initiative Coordinator

Re: Request for Title and Summary – Initiative Statutory Amendment  
“The Stop Insurance Overcharges Act”

Dear Attorney General Brown:

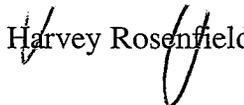
Pursuant to Article II, Section 10(d) of the California Constitution and Section 9002 of the Elections Code, we are submitting the attached proposed statewide ballot measure, entitled "The Stop Insurance Overcharges Act" to your office. We request that you prepare a title and summary of the measure as provided by law.

We have also included with this letter the required statement under California Elections Code section 9608 signed by Douglas Heller as one of the proponents, with Harvey Rosenfield as the other proponent, and a check in the amount of \$200.

Should you require any further information, please contact Douglas Heller at 1750 Ocean Park Blvd., Suite 200, Santa Monica, CA 90405 or by telephone at 310-392-0522 ext. 309.

Thank you for your time and attention to this matter.

Sincerely,

  
Harvey Rosenfield

  
Douglas Heller

## SECTION 1. TITLE

This measure shall be known as the Stop Insurance Overcharges Act.

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## SECTION 2. FINDINGS AND DECLARATIONS.

The People of the State of California find and declare the following:

- (a) Under Proposition 103, insurance companies are required to submit their rates to the Insurance Commissioner for review and approval. In recent years, insurance company lawyers and lobbyists have tried to evade that law by adding extra fees and charges to customers' premiums.
- (b) As a result, California policyholders are paying excessive installment fees, unregulated broker fees, and other unfair and unlawful surcharges.
- (c) Some insurance companies want to change the law to allow insurers to increase premiums even more for customers who file an auto accident claim, even when they are not at fault, or who want to restart insurance that has lapsed, or who want to purchase insurance for the first time.
- (d) These practices are unfair to consumers, violate existing laws and lead to more people going without needed insurance.

## SECTION 3. PURPOSE AND INTENT.

In enacting this Act, it is the purpose and intent of the People of the State of California to:

- (a) Stop insurers from overcharging customers who pay for insurance on an installment basis.
- (b) Limit insurance broker fees and prohibit brokers from double-dipping by charging consumers a broker fee while also collecting an insurance company commission on the sale of insurance policies.
- (c) Prohibit insurance companies from making customers pay more for insurance simply because they restarted their insurance, did not previously have insurance (even if they never needed it before), or because they filed a claim for an accident in which they were not at-fault.
- (d) Stop insurers from adding any other fees and costs to customers' premiums that have not been publicly disclosed, reviewed and approved by the Insurance Commissioner.

SECTION 4. The following sections, commencing with section 1861.25 is added to Article 10 of Chapter 9 of Part 2 of Division 1 of the Insurance Code to read:

1861.25 An installment fee, or any other amount billed to a policyholder in connection with payment of premium on a periodic basis, including a fee for the time value of money, constitutes premium and therefore is subject to the review and approval of the Insurance Commissioner pursuant to the provisions of this Article. The Commissioner shall not approve, and a company shall not charge, any amount in excess of the direct cost, including printing and mailing costs, to the insurance company of collecting installment payments.

1861.26 (a) A person who offers or sells insurance pursuant to Insurance Code section 33 and 1623 and charges a consumer a broker fee in connection with an insurance transaction shall be prohibited from collecting any commission paid by an insurance company or its agent in connection with that transaction.

(b) Broker fees shall be fair, reasonable, and not unfairly discriminatory. The Commissioner shall adopt rules to enforce this provision, including, but not limited to, rules establishing broker fee limits and broker duties.

(c) "Broker fee" means and includes any fee, however labeled, charged by an insurance broker, as defined in Insurance Code sections 33 and 1623, to provide services that constitute or arise out of the transaction of insurance, as defined in sections 35 of the Insurance Code.

(d) "Consumer" means an applicant or purchaser of insurance coverage.

1861.27 Any other amount that an insurer or its agent bills to and is paid by a policyholder constitutes premium and therefore is subject to the review and approval of the Insurance Commissioner pursuant to the provisions of this Article.

1861.28 Notwithstanding any other provision of law, the absence of prior insurance, in and of itself, shall not be a criterion for automobile or residential property insurance rates, premiums or insurability.

1861.29 In determining automobile insurance rates, premiums or insurability, or in calculating any discount or surcharge, an insurer may not include a customers' claims experience, except that this section does not in any way alter section 1861.02, which requires that insurance companies base automobile premiums primarily upon a motorist's driving safety record.

## SECTION 5. CONFLICTING BALLOT MEASURES

In the event that this measure and another measure or measures relating to the issues herein shall appear on the same statewide election ballot, the provisions of the other measures shall be deemed to be in conflict with this measure. In the event that this measure shall receive a greater number of votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measures shall be null and void.

## SECTION 6. AMENDMENT.

The provisions of this act shall not be amended by the Legislature except to further its purposes by a statute passed in each house no later than July 31 in any calendar year, by roll call vote, entered in the journal, two-thirds of the membership concurring.

## SECTION 7. OTHER MATTERS

(a) Interpretation. The courts are directed to construe and apply this measure in the manner that best and most fully promotes its underlying purposes.

(b) Severability. If any provision of this Act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act that can be given effect in the absence of the invalid provision or application. To this end, the provisions of this Act are severable.