

**STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
45 Fremont Street, 21st Floor
San Francisco, California 94105**

RH06093102

January 16, 2007

**NOTICE OF PROPOSED ACTION AND NOTICE OF PUBLIC HEARING
REGARDING LOW COST AUTOMOBILE INSURANCE PROGRAM PLAN OF
OPERATIONS**

SUBJECT OF HEARING

California Insurance Commissioner Steve Poizner will hold a public hearing to consider proposed amendments to Sections 8, 14 and 15 of the California Low Cost Automobile Insurance Program.

AUTHORITY TO ADOPT RATES AND REFERENCE

The Insurance Commissioner proposes changes to the California Low Cost Automobile Insurance Program Plan of Operations, referenced in Title 10, Chapter 5, Subchapter 3, Article 8, Section 2498.6 of the California Code of Regulations, pursuant to the authority vested in him by California Insurance Code Sections 11620, 11624, 11629.7, 11629.79, 11629.9 and 11629.99. The purpose of these amendments is to implement, interpret, and make specific the provisions of California Insurance Code Sections 11623.5, 11629.7, 11629.71, 11629.74, 11629.79, 11629.9, 11629.91, 11629.94 and 11629.99.

HEARING DATE AND LOCATION

Notice is hereby given that a public hearing will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to the proposed amendments at the following date, time, and place:

Date and Time: **April 19, 2007
10:00 a.m.**

Location: **California Department of Insurance
45 Fremont Street
22nd Floor Hearing Room
San Francisco, California 94105**

ACCESS TO HEARING ROOM

The facilities to be used for the public hearing are accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to notify the

contact person (listed below) for this hearing in order to make special arrangements, if necessary.

WRITTEN AND/OR ORAL COMMENTS: AGENCY CONTACT PERSON

All persons are invited to submit written comments to the Insurance Commissioner on the proposed changes prior to the public comment deadline. Comments should be addressed to the contact person for this proceeding:

Mike Riordan, Staff Counsel
California Department of Insurance
Rate Enforcement Bureau
45 Fremont Street, 21st Floor
San Francisco, CA 94105
riordanm@insurance.ca.gov
Telephone: (415) 538-4226
Facsimile: (415) 904-5490

The backup agency contact person for this proceeding will be:

Elizabeth Mohr, Assistant Chief Counsel
California Department of Insurance
Rate Enforcement Bureau
45 Fremont Street, 21st Floor
San Francisco, CA 94105
mohre@insurance.ca.gov
Telephone: (415) 538-4112
Facsimile: (415) 904-5490

All persons are invited to present oral and/or written testimony at the scheduled public hearing.

DEADLINE FOR WRITTEN COMMENTS

All written materials, unless submitted at the hearing, must be **received** by the Insurance Commissioner at the address listed above **no later than 5:00 p.m. on April 19, 2007**. Any written materials received after that time will not be considered. Written comments may also be submitted to the contact person by e-mail and facsimile transmission. Please select only one method to submit written comments.

ADVOCACY OR WITNESS FEES

Persons or groups representing the interest of consumers may be entitled to reasonable advocacy fees, witness fees, and other reasonable expenses, in accordance with the provisions of California Code of Regulations, Title 10, Sections 2662.1-2662.6 in connection with their participation in this matter. Interested persons must submit a Petition to Participate, as specified in California Code of Regulations, Title 10, Section 2661.4. The Petition to Participate must be submitted to the Commissioner at the Office of the Public Advisor at the following address:

California Department of Insurance
Office of the Public Advisor
300 Capitol Mall, Suite 1700
Sacramento, CA 95814
Telephone: (916) 492-3500

A copy of the Petition to Participate must also be submitted to the contact person for this hearing (listed above). For further information, please contact the Office of the Public Advisor.

INFORMATIVE DIGEST

Currently the CAARP Plan of Operations allows insurers to enter into agreements whereby one insurer (servicing company) will write the assigned risk business of another insurer (buy-out company) for a fee. The purpose of the proposed amendments is to update the current LAD procedure to be consistent with the LAD procedures in the CAARP Plan of Operations. Although the LCA sets forth general eligibility requirements for a servicing company, it does not provide specific premium to surplus ratios or certain other criteria or conditions under which certain criteria may be waived. Also, it does not address a process to monitor continuing eligibility or capacity or set forth assignment procedures if the appointment of a servicing carrier is terminated. The proposed amendments will clarify the various procedures under LAD.

Changes to Section 8 B. Limited Assignment Distribution Procedure eligibility requirements are as follows;

- Once an insurer is appointed as a servicing company the insurer must continue to meet the service company requirements;
- If an insurer does not write 5% of the voluntary private passenger non-fleet car years in California but is a part of a group of insurers, the combined market share of the group may be used to meet the market share eligibility requirement;
- The insurer will have to maintain a net premium to surplus ratio of 3 to 1;
- For three continuous years from the most current publication the insurer must have maintained a rating of A- or better from A.M Best;
- The applicant must have been licensed and writing private passenger automobile insurance in California without restriction for at least three years;
- The Advisory Committee may consider a servicing company applicant that does not meet the market share requirement or the licensing and writing requirement. If the Advisory Committee approves such a servicing carrier it would then forward the recommendation to the Commissioner for approval;
- Eligibility criteria not subject to exception include the statutory capital and surplus requirement, the net premium to surplus ratio requirement, and maintenance of the required financial rating of A- or better from A.M. Best;
- Guidelines for Plan monitoring of service company eligibility and buy-out capacity and for terminating a LAD servicing company are specified in Sections 8.B.6 through 8;

- Companies with market shares greater than 5% may apply to the Advisory Committee and Commissioner for an exception to buy out as stated in Section 8.B.9;
- Section 8.B.16 provides guidance in situations where there is a conflict between the Plan of Operations and the buy-out company contract;
- Sections 14 and 15 add language to the requirement of reporting of statistical data. It specifies that each insurer is responsible for reporting statistical data in accordance with the annual AIPSO Statistical Program. It also allows that if an insurer fails to report its data or the data is deemed inaccurate, by the judgment of the statistical agent and AIPSO, data shall be estimated by the statistical agent designated by the insurer and that information is authorized to be released to AIPSO. It is the responsibility of the insurer to provide corrected data if needed.

COMPARABLE FEDERAL LAW

There are no comparable existing federal regulations or statutes.

LOCAL MANDATE DETERMINATION

The Insurance Commissioner has initially determined that the proposal will not result in any new program mandates on local agencies or school districts.

MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS OR COSTS WHICH MUST BE REIMBURSED PURSUANT TO GOVERNMENT CODE SECTIONS 17500 THROUGH 17630

The Insurance Commissioner has initially determined that the proposal will not result in any cost or significant savings to any local agency or school district for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement, or in other nondiscretionary costs or savings to local agencies.

COST OR SAVINGS TO ANY STATE AGENCY; FEDERAL FUNDING

The Commissioner has determined that the proposed regulation will result in no cost or savings to any state agency and no cost or savings in federal funding to the state.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE

The Commissioner has initially determined that the proposal will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This proposal will have no effect on the creation or elimination of jobs in California, the creation of new businesses, the elimination of existing businesses in California, or the expansion of businesses in California.

COST IMPACT ON PRIVATE PERSONS OR ENTITIES

The Commissioner has initially determined that the proposal will not impact businesses, but will have a potential cost impact on private persons directly affected.

IMPACT ON HOUSING COSTS

The Insurance Commissioner has initially determined that the proposal will not affect housing costs.

IMPACT ON SMALL BUSINESS

The matter proposed herein will affect insurance companies and therefore will not affect small business (Gov. Code Section 11342.610(b)(2)).

SPECIFIC TECHNOLOGIES OR EQUIPMENT

The proposal would not mandate the use of specific technologies or equipment.

ALTERNATIVES

The Insurance Commissioner must determine that no reasonable alternative considered by the agency, or that has otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

PLAIN ENGLISH

The proposed amendments describing the changes are plain English.

TEXT AND INITIAL STATEMENT OF REASONS

The Department has prepared an Initial Statement of Reasons addressing the proposed amendments, in addition to the Informative Digest included in this notice. The Initial Statement of Reasons and this Notice of Proposed Action are available for inspection or copying, and will be provided at no charge upon request to the contact person listed above. Further details of CAARP's proposed amendments are on file with the Commissioner and available for review as set forth below.

FINAL STATEMENT OF REASONS

The final statement of reasons will be prepared at the conclusion of this proceeding. Upon written or e-mail request to the contact person listed above, the final statement of reasons will be made available for inspection and copying once it has been prepared. A copy of the final statement of reasons will also be posted on the Departments web site

ACCESS TO RULEMAKING FILE

Any interested person may inspect a copy of or direct questions about CAARP's proposed amendments, the statement of reasons, and any supplemental information contained in the rulemaking file by contacting the contact person listed above. **By prior appointment**, the rulemaking file is available for inspection at 45 Fremont Street, 21st Floor, San Francisco, California 94105 between the hours of 9:00 a.m. and 4:30 p.m. Monday through Friday.

AUTOMATIC MAILING

A copy of this Notice, including the Informative Digest, is being sent to all persons on the Insurance Commissioner's mailing list.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Initial Statement of Reasons and this Notice of Proposed Action will be published online and may be accessed through the Department's website at www.insurance.ca.gov.

AVAILABILITY OF MODIFIED TEXT

With the exception of nonsubstantive or grammatical changes, if the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before it adopts the regulations.

STEVE POIZNER
Insurance Commissioner

Dated: _____ 2007

By: _____/s/_____
Mike Riordan
Staff Counsel