



Title: California Senate Bill 1040

Subject: Restitution

Summary:

California Senate Bill 1040 amends section 12928.6 of the Insurance code to add restitution to the list of remedies that the Insurance Commissioner may request from a court. It also adds a new section granting the Commissioner additional powers and duties relating to restitution.

As used in this new section, “restitution” is defined to mean “the full amount that will compensate each person for their direct and indirect financial and nonfinancial losses proximately caused by the respondent’s violations.”

The bill authorizes the Commissioner to order a respondent to provide restitution for a loss arising from the respondent’s conduct if certain requirements are met.

Under this bill, when the Insurance Commissioner determines a respondent violated the insurance code or applicable standards of conduct and the Commissioner issues a cease-and-desist order, an order for a monetary penalty, or another sanction, the Commissioner may issue an ancillary restitution order. The bill also states that if the facts and equity permit, with a restitution order, the Commissioner may issue an order of rescission enforceable on any person subject to the Commissioner’s jurisdiction.

A rescission or restitution order shall be subject to judicial review in the same manner and at the same time as the order to which it is ancillary. Additionally, such order may be judicially enforced in an action brought by the Commissioner, the Attorney General, a district attorney, a city attorney, or any person owed restitution pursuant to the order. In that action, the court may award attorney’s fees and court costs to a prevailing plaintiff.

The Commissioner may order a respondent who is ordered to provide restitution to reimburse the Commissioner for enforcement costs including attorney’s fees.

The bill has been amended to expand the exemptions to include insurers, insurance agents, administrators, surplus lines brokers, and certain nonadmitted insurers. It also makes changes regarding the distribution of funds collected as restitution.

Effective Date: January 1, 2023.

Date Filed:	02/15/2022	
Date/Type of Last Action:	02/15/2022	Introduced. Read first time. To committee on Rules for assignment. To Print.
	02/15/2022	Article IV Section 8(a) of the Constitution and Joint Rule 55 dispensed with February 7, 2022, suspending the 30 calendar day requirement.
	02/16/2022	From printer.
	02/23/2022	Referred to Coms. on INS. and JUD.
	03/25/2022	Set for hearing March 31.
	03/31/2022	From committee: Do pass as amended and re-refer to Com. on JUD. (9-0)
	04/04/2022	Read second time and amended. Re-referred to Com. on JUD.
	04/06/2022	Set for hearing April 19.
	04/20/2022	From committee: Do pass and re-refer to Committee on Appropriations with recommendation: To consent calendar. (11 - 0) Re-referred to Committee on Appropriations.
	04/22/2022	Set for hearing May 2
	05/02/2022	From committee: Be ordered to second reading pursuant to Senate Rule 28.8 and ordered to consent calendar.
	05/03/2022	Read second time. Ordered to consent calendar.
	05/09/2022	Passed the Senate (33-0)
	06/22/2022	Passed Committee on Insurance (11-1)
	06/28/2022	Passed Judiciary Committee (11-0)
	08/10/2022	Passed Appropriations Committee (15-0)
	08/18/2022	Passed in the Assembly
	09/25/2022	Signed by the Governor