

1920

## INSURANCE ACT

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### Recommended Citation

INSURANCE ACT California Proposition 14 (1920).  
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proposed law fundamentally right is generally conceded. It is the fruition of many years of effort by the women of California to restore their original equal rights. The people should approve the law and leave the technical amendments to the Legislature.  
Vote "Yes." **CHESTER H. ROWELL.**

**ARGUMENT AGAINST PROPOSED NEW COMMUNITY PROPERTY LAW.**

The justification for the present law, permitting the wife to inherit half of the community property upon her husband's death and the husband to retain title and possession of all of it, upon his wife's death, is that during his life, the husband is the sole "bread winner" of the family and is criminally and civilly responsible for their care and support, while the wife neither makes the living nor has any corresponding legal liabilities.

To justify the change sought by the new law, two things must occur:

1. The proponents must prove that the existing law is unsound and unjust, that married men are not the family providers and that at their death they fail to make proper provision for their families.

2. The present laws imposing liabilities upon the husband must be repealed or new statutes enacted imposing equal responsibilities upon the wife. If "equality" between married people in their community property is desired, the wife must assume half of the responsibilities when she takes half of the benefits. The proposed law gives the wife, at the death of her husband, if he leaves no will, all of such property, but carries with it none of the financial burdens.

It is reliably said that all property passes through the probate court every twenty-five years. In requiring community property to be administered upon both at the husband's and

wife's death, a substantial part of all property will be forced through court every twelve and one-half years.

If this measure is adopted, it will do three far-reaching and unjust things:

1. If either husband or wife dies without will, the survivor takes the whole community property, cutting off children and relatives of the deceased.

2. Either husband or wife, may, without the consent of the other, will half of the community property to the decedent's children (who may be by a former marriage) or other descendants, but not one dollar can be left to a dependent parent, brother, sister or other relative or to any worthy charity without the other spouse's written consent endorsed upon or attached to the will. Such consent may be either declined or later secretly revoked, thus enabling the surviving spouse to inherit the whole of the community property to the exclusion of all other heirs.

3. All existing wills of married people will become potentially void.

If the wife is given the power to devise half of the community property, she will be expected to do so, thus dragging into the probate court her husband's business or their small home or farm, forcing liquidation of his debts, surrender of ownership of the property, and probable division with minor heirs, distant relatives or strangers. The credit of married men will be impaired at least fifty per cent if not more.

The proposed statute forces the husband to pay an inheritance tax upon half of the community property, where he pays none now.

Married people without children have no power under this act to will any of the community property without joint written consent.

The measure will tend to seriously disrupt not only business but family relations. Vote "No."  
**L. H. ROSEBERRY.**

<p><b>INSURANCE ACT.</b> Submitted to electors by referendum. Prohibits any subsidiary corporation, agent, or employee of, or person or corporation controlled by, any bank organized under laws of California or of any state in the United States, from acting as general agent or department manager of any</p>	<p>YES</p>
<p><b>14</b> insurance company transacting business in California, and prescribes conditions under which they may act as local agent therefor; declares appointment of life, health and accident, title or county mutual insurance agents, or of any insurance agent in or for any place having population not exceeding five thousand, unaffected hereby; and prescribes penalties.</p>	<p>NO</p>

Whereas, the legislature of the State of California, in regular session in April, 1919, passed, and the governor of the State of California, on the twenty-seventh day of May, 1919, approved a certain act, which act, together with its title, is in the words and figures following, to wit:

**PROPOSED LAW.**

An act regulating the appointment of the agents or employees of state banks and subsidiary corporations dominated or controlled by state banks as insurance agents and prohibiting the appointment of the agents or employees of state banks and subsidiary corporations dominated or controlled by state banks as general insurance agents or managerial agents or department managers of certain insurance companies.

The people of the State of California do enact as follows:

Section 1. It shall be unlawful for any subsidiary corporation, agent or employee of any bank organized or existing under the laws of

the State of California or the laws of any other state of the United States, or any person or corporation controlled or dominated by such bank to act as the general agent or managerial agent, or department manager, of any insurance company transacting business in the State of California.

Sec. 2. It shall be unlawful for any insurance company transacting business in the State of California to engage, appoint, maintain or employ any subsidiary corporation, agent or employee of any bank or any person or corporation controlled or dominated by any bank, as the general agent or managerial agent or branch manager or department manager of such insurance company.

Sec. 3. No subsidiary corporation dominated or controlled by any bank, or any agent or employees of such bank shall be permitted to act as the local agent of any insurance company, except as follows:

Such agent or employee of such bank or such subsidiary corporation dominated or controlled by such bank shall file an application in writing with the insurance commissioner of the State of

California, stating in said application that the applicant desires to become such insurance agent. Upon the filing of said application, the insurance commissioner of the State of California shall forthwith fix a time for the hearing of said application.

Sec. 4. If at the hearing of said petition the insurance commissioner shall find that the appointment of applicant is not inimical to the best interests of the insured of the State of California, then he shall make a finding to that effect. Thereupon, the said insurance commissioner shall transmit such findings to the superintendent of banks of the State of California, and if the superintendent of banks of the State of California shall find that the granting of the license to such applicant is not inconsistent with the proper conduct of such bank, he may so find and thereupon transmit his findings to the state insurance commissioner, who shall thereupon grant to such applicant a license to act as local insurance agent.

Sec. 5. Nothing in this act shall be construed to apply or to refer to or affect the appointment of any life insurance agents, or health and accident insurance agents, title insurance agents, or county mutual insurance agents and nothing in this act shall be construed to apply or refer to or affect the appointment of any insurance agent in or for a place, the population of which does not exceed five thousand persons, as shown by the last preceding federal census or any subsequent census compiled and certified under any laws of this state.

Sec. 6. When any insurance company shall violate the provisions of this act, the said insurance commissioner shall have the power to suspend the certificate of authority of such insurance company for a period not to exceed one year.

Sec. 7. Any person, firm or corporation violating the provisions of this act shall be guilty of a misdemeanor.

And whereas, said regular session of the said legislature finally adjourned April 22, 1919, and the thirty days having not expired since said final adjournment;

Now, therefore, sufficient qualified electors of the State of California have presented to the secretary of state their petition asking that said act, hereinbefore set forth, so passed by the legislature and approved by the governor, as hereinbefore stated, be submitted to the electors of the State of California for their approval or rejection.

#### EXISTING PROVISIONS.

Section six hundred thirty-three of the Political Code, which provides for the appointment of agents of insurance companies, reads as follows:

(Provisions differing from proposed act regulating appointment of agents are printed in italics.)

633. No person, shall within this state act as the agent of any insurance or surety company or society until such person shall have first obtained a license from the insurance commissioner authorizing him or it so to act.

Any person duly appointed and authorized by an insurance or surety company or society to solicit applications for insurance or surety bonds, or effect insurance or surety bonds in the name of such company, shall be an agent within the meaning of this section. The insurance commissioner shall upon written notice from any insurance or surety company or society, authorized to transact business in this state, of its appointment of any person to act as its agent and upon payment of the fee provided for in section six hundred five of the Political Code, issue to such person a license in such form as may be prescribed by the insurance department; provided, however, that such proposed licensee shall first file with the insurance commissioner of the State of California upon a form to be prescribed and furnished by said insurance com-

missioner, an application in writing, duly verified under oath, reciting:

First—The applicant's full name and address;  
Second—The name of the company for which the applicant is to act as agent;

Third—The applicant's experience in the insurance or surety business;

Fourth—If the applicant is engaged in any business other than insurance or surety, the nature of such business and the name under which such business is conducted;

Fifth—That the applicant intends to carry on in good faith the occupation of an insurance or surety agent, and that said applicant does not seek such appointment for the purpose of avoiding or preventing the operation or enforcement of the insurance laws of this state.

If it shall be brought to the attention of the insurance commissioner that any agent licensed hereunder has willfully misstated any material fact in his application, or that the purpose or principal use of such license as an insurance or surety agent is to avoid or prevent the operation or enforcement of any antirebate law or other insurance law of this state, then the insurance commissioner shall give notice to such agent and cite him to appear before such insurance commissioner and show cause why his license as an insurance or surety agent should not be suspended or revoked. If at the hearing of said order to show cause it shall appear that said agent has willfully misstated any material fact in his application to the insurance commissioner, or that the purpose or principal use of such license is to avoid or prevent the operation or enforcement of any antirebate law or other insurance law of this state, then the insurance commissioner shall either revoke or suspend the license of such agent, and shall notify both the agent and the company of such revocation or suspension.

If at any time the insurance commissioner revokes or suspends the license theretofore granted to any agent, such applicant or agent may commence an action against the insurance commissioner for the purpose of reviewing the facts and the law pertinent to the controversy, and for the purpose of obtaining relief, or canceling the act of the insurance commissioner. In any such action the court shall have full power to investigate all the facts de novo without regard to the determinations previously made by the insurance commissioner. All of the provisions of the Code of Civil Procedure relating to pleadings, proofs, trials and appeals shall be applicable to such actions.

Such action shall be commenced and tried in the superior court of the county in which such agent resides, unless the parties thereto stipulate otherwise.

Unless revoked by the commissioner, or unless the company by written notice to the commissioner cancels the agent's authority to act for it, such license, or any renewal thereof, shall expire on the first day of July next after its issue or renewal. Any license issued after this section takes effect may in the discretion of the insurance commissioner be renewed for a succeeding year by a renewal certificate without the commissioner requiring the detailed information required by this section.

Any person who shall act or offer to act or assume to act as an insurance or surety agent unless licensed by the insurance commissioner as provided in this section, or after such license granted to him or it has been suspended or revoked, shall be guilty of a misdemeanor, but any policy issued on an application, thus procured, shall bind the insurance company if otherwise valid.

Nothing in this section shall be construed to apply to, refer to, or affect county mutual fire insurance companies, or their agents, or title insurance business, or fraternal benefit societies, or agents or employees of reciprocal or inter-insurance exchanges.

Nothing herein contained shall in any manner limit the fees provided for in section six hundred five of the Political Code.

**ARGUMENT IN FAVOR OF INSURANCE ACT.**

State and federal laws do not grant the right to a bank to engage in the insurance business, except in communities of less than five thousand population. A certain bank proposes to circumvent the law by the creation of an auxiliary corporation, whose stockholders are identical with the stockholders of the bank, and do that which the bank itself is not permitted to do. An attempt on the part of a bank to enter into general insurance control is not good banking and is contrary to the law. Such subterfuge of a corporation, composed of the identical stockholders as the said bank, should not be permitted.

The fact that this privilege is denied to banks under federal and all state laws must in itself be significant, and it is probably unnecessary to advance the reasons for this regulation, but I would call attention to what is probably the underlying reason that such a right has never been granted a bank. The right of a bank to obtain an insurance profit in addition to a bank profit on the same transaction might have a tendency to induce loans to be granted where the sole test was not the merit of the application for the loan; therefore, under the arrangement of a certain auxiliary corporation a certain bank is seeking to circumvent the law prohibiting banks from entering into the insurance business and do by indirection that which it is not permitted to do directly. The banker while speaking to a proposed borrower does not threaten—a mere suggestion relating to the placing of insurance is all-sufficient to induce the borrower to place his insurance through the bank, or auxiliary. Therefore, in view of the regulation of insurance under state supervision, we who are engaged in the insurance business and the general public have a right to ask that banks which are likewise regulated under state supervision shall not be permitted to evade and avoid the spirit of well settled rules of conduct.

The federal laws permit a bank to enter the insurance business in towns of less than five thousand population, which clearly shows that the law contemplates the objection by restricting the privilege to small communities, where the insurance interest of the bank could not become paramount to that of the banking interest. They have not overlooked the danger of banks entering the insurance business, but have considered the degree to which their influence could be harmful in smaller communities as negligible.

Supporting this regulation is the opposition of nearly all of the prominent banks throughout the State of California to the practice of banks entering directly into the insurance business.

Respectfully yours,  
BURT L. DAVIS.

**ARGUMENT AGAINST INSURANCE ACT.**

To the voters of the State of California:  
This proposed measure is the worst sort of selfish and reactionary legislation, having for its sole object the elimination of legitimate competition in a field that vitally affects general public.

Legitimate competition is the very life trade, and any act or measure that is designed to stifle it is clearly in favor of those who enjoy the monopoly and against the public who pays the bills.

The following is a summary of a few of the arguments that are urged against the adoption of the measure:

1. It is special legislation because it prohibits the stockholders of a state bank from forming an independent general corporation and engaging in the legitimate business of insurance, while it permits such corporation to engage in any other form of legitimate business. If it is lawful for such a corporation to engage in all other forms of legitimate business, no reason exists why an exception should be made of the insurance business. Banks are as vitally interested as the property owners themselves in the solvency of the insurance covering property on which their money is loaned.

2. It is discriminatory because if this law were passed there would be nothing to prevent the stockholders of a national bank operating in this state from organizing a general corporation under the laws of the State of California and acting as the general agent of an insurance company. Why this discrimination against the stockholders of a state bank?

3. It is selfish legislation in that it is aimed at giving to certain persons, already in the business, a monopoly of said business to the benefit of said persons and to the detriment of the public.

4. The legislation is illogical because it permits even a bank directly to act as insurance agent in communities of less than five thousand. If any evil is to be corrected, said communities are as much entitled to protection as the larger communities.

5. The proposed legislation has no legitimate object because it neither adds to the safety of insurance nor lessens its cost to the public. On the contrary, its passage would have a tendency to increase the cost of insurance, for if the proponents of this measure have grown so strong in California that they can by this means regulate legitimate competition, there will be little if anything left to restrain them from boosting the cost of insurance to the public.

For the foregoing reasons you should reject this pernicious legislation and prevent it from becoming a law.

Respectfully submitted,  
JAMES A. BACIGALUPT

**IRRIGATION DISTRICT ACT.** Submitted to electors by referendum. Amends sections 1, 2 and 9 of act approved March 31, 1897, as subsequently amended, providing for organization of irrigation districts. Permits organization of an irrigation district by majority vote of electors instead of by two-thirds vote thereof as now provided. Rearranges existing provisions relating to petition for formation of an irrigation district and duties of State Engineer and board of supervisors in connection therewith.

YES

NO

Whereas, the legislature of the State of California, in regular session in April, 1919, passed, and the governor of the State of California, on the sixteenth day of May, 1919, approved a certain act, which act, together with its title, is in the words and figures following, to wit:

[Part-two]

**PROPOSED LAW.**

(Proposed changes from provisions of present laws are printed in black-faced type.)  
An act to amend sections one, two, and nine of an act entitled "An act to provide for th