

11-3-2009

# LIMITS ON CERTAIN INSURANCE PRACTICES AND COSTS. INITIATIVE STATUTE

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## Recommended Citation

LIMITS ON CERTAIN INSURANCE PRACTICES AND COSTS. INITIATIVE STATUTE California Initiative 1384 (2009).  
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**DEBRA BOWEN** | SECRETARY OF STATE  
STATE OF CALIFORNIA | ELECTIONS

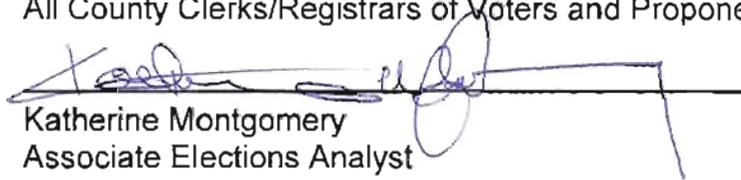
1500 11th Street, 5th Floor | Sacramento, CA 95814 | Tel (916) 657-2166 | Fax (916) 653-3214 | www.sos.ca.gov

April 15, 2010

County Clerk/Registrar of Voters (CC/ROV) Memorandum #10125

TO: All County Clerks/Registrars of Voters and Proponent

FROM:

  
Katherine Montgomery  
Associate Elections Analyst

RE: Initiative: Failure of #1384, Related to Auto Insurance

Pursuant to Elections Code section 9030(b), you are hereby notified that the total number of signatures for the hereinafter named initiative statute filed with all county elections officials is less than 100 percent of the number of qualified voters required to find the petition sufficient; therefore, the petition has **failed**.

TITLE: LIMITS ON CERTAIN INSURANCE PRACTICES AND COSTS. INITIATIVE STATUTE.

SUMMARY DATE: November 3, 2009

PROPONENT: Douglas Heller



**DEBRA BOWEN** | SECRETARY OF STATE  
STATE OF CALIFORNIA | ELECTIONS

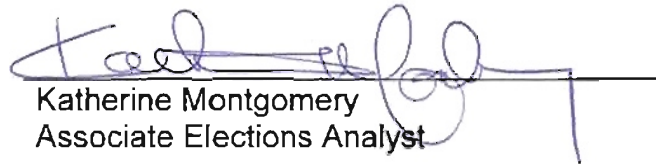
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November 3, 2009

County Clerk/Registrar of Voters (CC/ROV) Memorandum #09172

TO: All County Clerks/Registrars of Voters and Proponent

FROM:

  
Katherine Montgomery  
Associate Elections Analyst

RE: Initiative: 1384, Related to Auto Insurance

Pursuant to Elections Code section 336, we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed initiative measure entitled:

**LIMITS ON CERTAIN INSURANCE PRACTICES AND COSTS.  
INITIATIVE STATUTE.**

The proponent of the above-named measure is:

Douglas Heller  
1750 Ocean Park Blvd., Suite 200  
Santa Monica, CA 90405

(310) 392-0522 ext. 309

#1384

LIMITS ON CERTAIN INSURANCE PRACTICES AND COSTS.  
INITIATIVE STATUTE.

CIRCULATING AND FILING SCHEDULE

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1. Minimum number of signatures required: .....433,971  
California Constitution, Article II, Section 8(b)
2. Official Summary Date: ..... Monday, 11/02/09
3. Petitions Sections:
  - a. First day Proponent can circulate Sections for  
signatures (Elec. Code § 336) ..... Monday, 11/02/09
  - b. Last day Proponent can circulate and file with the county.  
All sections are to be filed at the same time within each  
county. (Elec. Codes §§ 336, 9030(a)) ..... Thursday, 04/01/10
  - c. Last day for county to determine total number of  
signatures affixed to petitions and to transmit total  
to the Secretary of State (Elec. Code § 9030(b)) ..... Tuesday, 04/13/10  

(If the Proponent files the petition with the county on a date prior to  
04/01/10, the county has eight working days from the filing of the petition  
to determine the total number of signatures affixed to the petition and to  
transmit the total to the Secretary of State) (Elec. Code § 9030(b)).
  - d. Secretary of State determines whether the total number  
of signatures filed with all county clerks/registrars of  
voters meets the minimum number of required signatures  
and notifies the counties ..... Thursday, 04/22/10\*
  - e. Last day for county to determine total number of qualified  
voters who signed the petition, and to transmit certificate  
with a blank copy of the petition to the Secretary of State  
(Elec. Code § 9030(d)(e)) ..... Friday, 06/04/10

\* Date varies based on the date of county receipt.

**INITIATIVE #1384**  
**Circulating and Filing Schedule continued:**

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(If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 04/22/10, the last day is no later than the thirtieth working day after the county's receipt of notification). (Elec. Code § 9030(d)(e)).

- f. If the signature count is more than 477,369 or less than 412,273 then the Secretary of State certifies the petition as qualified or failed, and notifies the counties. If the signature count is between 412,273 and 477,369 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of **all** signatures (EC §9030(f)(g); 9031(a)).....Monday, 06/14/10\*
  
- g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State. (Elec. Code § 9031(b)(c)). ..... Monday, 07/26/10

(If the Secretary of State notifies the county to determine the number of qualified voters who have signed the petition on a date other than 06/14/10, the last day is no later than the thirtieth working day after the county's receipt of notification.) (Elec. Code § 9031(b)(c).)

- h. Secretary of State certifies whether the petition has been signed by the number of qualified voters required to declare the petition sufficient (Elec. Code §§ 9031(d), 9033).....Friday, 07/30/10\*

\*Date varies based on the date of county receipt.

## IMPORTANT POINTS

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- California law prohibits the use of signatures, names and addresses gathered on initiative petitions for any purpose other than to qualify the initiative measure for the ballot. This means that the petitions cannot be used to create or add to mailing lists or similar lists for any purpose, including fundraising or requests for support. Any such misuses constitutes a crime under California law. Elections Code section 18650; *Bilofsky v. Deukmejian* (1981) 124 Cal.App.3d 825, 177 Cal.Rptr. 621; 63 Ops.Cal.Atty.Gen. 37 (1980).
- Please refer to Elections Code sections 100, 101, 104, 9001, 9008, 9009, 9021, and 9022 for appropriate format and type consideration in printing, typing and otherwise preparing your initiative petition for circulation and signatures. Please send a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file.
- Your attention is directed to the campaign disclosure requirements of the **Political Reform Act of 1974**, Government Code section 81000 et seq.
- When writing or calling state or county elections officials, provide the official title of the initiative which was prepared by the Attorney General. Use of this title will assist elections officials in referencing the proper file.
- When a petition is presented to the county elections official for filing by someone other than the proponent, the required authorization shall include the name or names of the persons filing the petition.
- When filing the petition with the county elections official, please provide a blank petition for elections official use.

EDMUND G. BROWN JR.  
Attorney General

State of California  
DEPARTMENT OF JUSTICE



1300 I STREET, SUITE 125  
P.O. BOX 944255  
SACRAMENTO, CA 94244-2550

Public: (916) 445-9555  
Telephone: (916) 445-4752  
Facsimile: (916) 324-8835  
E-Mail: Krystal.Paris@doj.ca.gov

November 2, 2009

**FILED**  
In the office of the Secretary of State  
of the State of California

NOV 03 2009

Debra Bowen, Secretary of State  
By   
Deputy Secretary of State

Honorable Debra Bowen  
Secretary of State of the State of California  
State of California Elections  
1500 11th Street, 5th Floor  
Sacramento, CA 95814

Attention: Ms. Katherine Montgomery  
Associate Elections Analyst

Re: Initiative 09-0029, "The Stop Insurance Overcharges Act."

Official Circulating Title: LIMITS ON CERTAIN INSURANCE PRACTICES AND COSTS.  
INITIATIVE STATUTE.

Dear Secretary Bowen:

Pursuant to Elections Code sections 9004 and 336, you are hereby notified that on this day we sent our title and summary for Initiative 09-0029, "The Stop Insurance Overcharges Act" to the proponent. A copy of that title and summary and text of the proposed measure is enclosed.

Please contact me if you have any questions.

Sincerely,

  
KRYSTAL M. PARIS  
Initiative Coordinator

For EDMUND G. BROWN JR.  
Attorney General

Proponent:  
Douglas Heller  
Consumer Watchdog  
1750 Ocean Park Blvd., Suite 200  
Santa Monica, CA 90405

Date: November 2, 2009  
Initiative 09-0029

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

**LIMITS ON CERTAIN INSURANCE PRACTICES AND COSTS. INITIATIVE**

**STATUTE.** Limits the fees insurance companies can charge policyholders for paying their premiums in installments. Prohibits insurance brokers from collecting commissions from insurance companies and limits the fees brokers can charge customers. Prohibits insurance companies from considering a person's lack of prior insurance coverage in determining the cost of automobile or residential property insurance or whether a person is eligible for it. Prohibits insurance companies from considering a driver's "claims experience" in determining the cost of auto insurance or whether a driver is eligible for it. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: This measure would probably have no significant fiscal effect on state and local governments. (09-0029.)



RECEIVED  
SEP 04 2009

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.

09 - 0029

## 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.