

Auditor general chastises method of insurance rate examination by state B/2/87

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SACRAMENTO — The state auditor general has sharply criticized the state Insurance Department for inadequate oversight of insurance companies in California and for failing to take formal disciplinary action against errant firms.

In a report issued Tuesday to the state Legislature, Auditor General Thomas W. Hayes said the department has improved its rate examination procedures but needs to take further steps to ensure that it adequately oversees the underwriting and rate-setting practices of insurance companies.

"In addition," the report concluded, "the department needs to take steps to more quickly process

applications from insurance companies seeking to do business in California."

Insurance Commissioner Roxani Gillespie said steps are being taken to comply with the recommendations, and many suggested changes already are under way. Gillespie complained that the tenor of the report was "too negative."

"We cannot be held accountable for the prior administration," Gillespie said. "In 1983, we found that the department was not conducting on-site examinations of insurance companies. We hired new people and trained them and went out into the offices of insurance companies." Since that time, she said, on-site reviews have increased and improved.

She also said she had not seen the final report and could not comment fully on it. Kurt Sjoberg, chief deputy auditor general, said a copy of the report was delivered to Gillespie's office early Tuesday, and a draft had been in the hands of department officials for a week prior to release so that they could comment.

Sjoberg said the report dealt only with property and casualty insurers, not with auto insurance companies. The auditor general reports to the Legislature and undertakes reviews at the request of legislators.

In this case, Sjoberg said the review was requested by Sen. Alfred Alquist, D-San Jose, following a 1986 report critical of the In-

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insurance Department by the Commission on California State Government Organization and Economy. The commission is an independent agency that reviews state government and is more commonly known as the Little Hoover Commission.

Among major findings of the auditor-general's report:

- Approximately half of 700 property and casualty insurers subject to rate examination "have never been examined."
- From March 1985 to February 1987, the department completed examinations of 63 of about 700 property and casualty insurance companies subject to examination.
- The department only once has taken disciplinary action against an insurer as a result of a rate examination.
- Thirteen of 20 applications reviewed by the auditor-general were "unnecessarily delayed" beyond the department's 30-day "processing goal," some for nearly three years.

According to the report, the state will spend some \$26.1 million in 1987 to operate the Insurance Department, which employs 461 persons.

The department examines companies to ensure that underwriting and rate-setting practices are lawful and that rates are not excessive or inadequate. The department also licenses agents and brokers.

Critics of the insurance industry say state regulation in California is very limited in any case. Two major consumer-backed bills — one to end the industry's exemption from state antitrust laws and another to establish more control by the insurance department over large rate increases — have been introduced this session. Both bills have been strongly opposed by the insurance industry and have largely been stalled in legislative committees.

"When the department does conduct rate examinations, it can identify problems that can be corrected to protect the consumer," the auditor general said. "The department has not conducted more frequent rate examinations primarily because, in the past, it has not had a sufficient number of experienced staff."

Currently, according to the report, the department estimates that it has enough staff to meet its goal to examine property insurers every five years.

If the department needs additional staff, the report recommended funding increased staff through fees paid by the insurance industry.

Sjoberg said the department was hampered in past years by "lack of qualified staff" as well as by inadequate staffing levels.

"That is improving," he said. "We still haven't seen a lot of disciplinary action," he said. "They need to utilize their formal process rather than taking informal action."

The California Insurance Code allows the insurance department, through the commissioner, to hold public hearings, to suspend or revoke a company's certificate of authority and to fine an insurance company. The department can fine a company \$1,000 a day up to a maximum of \$30,000.

In 1985, according to the report, the department "instituted a follow-up examination policy" because it found that insurance companies were not correcting deficiencies.

The department prefers to use informal methods instead of disciplinary action to bring companies into voluntary compliance with the law — and the commissioner believes that companies generally do comply voluntarily, the report said.

"However, in six of 18 prior examinations reviewed," the auditor general said the department "found the same deficiencies that it had cited in the earlier examination."

In a response attached to the report, state Business, Transportation and Housing Agency Secretary John K. Geoghegan, whose agency oversees the Insurance Department, said the department has made "recent improvements in its rate regulation examination procedures."

"Further improvements will result as your recommendations and others are put in place," Geoghegan added.