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New Insurance-Related Laws

It is now required that the total capital and surplus requirements for non-admitted insurers in California to be at least \$45 million, up from \$15 million. Non-admitted insurers on the List of Eligible Surplus Line insurers which do not meet the requirements as of 1/1/11 must have at least \$30 million in capital and surplus as of 12/31/11 and at least \$45 million by 12/31/13.

For policies issued or renewed on or after 1/1/12, which provide for a refund of premium on other than a pro rata basis, a separate written disclosure regarding the refund, including the fees or penalties to be applied, must be given to the insured at the time of application and prior to each renewal.

Civil Code section 2782.8 has been amended to provide that a construction design professional is not obligated to defend or indemnify a public agency unless the design professional is actually liable for negligence, recklessness or willful misconduct. The new law applies to all contracts entered into on or after 1/1/11 by design professionals with public agencies whereby professional construction services are provided. The amendment is in response to a court decision which held that subcontractors had a duty to defend a general contractor regardless of the subcontractor's actual negligence. It is hoped that the new law will make insurance for design professionals more accessible by limiting instances in which they would be exposed.

Insurers are now prohibited from limiting the age group for dependent children covered by health care service plan contracts and group health insurance policies to less than 26 years of age. Insurers may not exclude or limit coverage for children due to pre-existing conditions. Plans which do not cover children will be prohibited from offering new individual policies.