

DEPARTMENT OF INSURANCE

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March 1, 2018

REG-2017-00018

INVITATION TO PRE-NOTICE PUBLIC DISCUSSION ON CONTEMPLATED REGULATIONS REGARDING WORKERS' COMPENSATION DEDUCTIBLE POLICIES

Pursuant to Government Code section 11346.45, Insurance Commissioner Dave Jones will hold pre-notice public discussions regarding contemplated regulations, enacted as California Code of Regulations, Title 10, Chapter 5, Subchapter 2, Article 9.8 ("Workers' Compensation Deductible Policies").

You are invited to participate in the pre-notice public discussions. The purpose of these discussions is to provide interested and affected persons an opportunity to present statements or comments regarding the contemplated regulations.

Date, Time and Locations

Date: Friday, March 16, 2018

Time: 10:00 a.m. to 12:00 noon, or as soon after 10:00 a.m. as all those wishing to speak have spoken, whichever is earlier. If necessary the discussion will continue from 1:00 p.m. to 2:00 p.m.

San Francisco

Location: California Department of Insurance
45 Fremont St., 21st Floor – Videoconference Room #21010
San Francisco, California 94105

Sacramento

Location: California Department of Insurance
300 Capitol Mall, 16th Floor – Videoconference Room #16005
Sacramento, California 95814

ATTENDANCE

In order to ensure that the hearing rooms are large enough to accommodate all those who wish to attend, we ask that you please RSVP as soon as possible, but no later than 5:00 p.m. on March 14, 2018, by providing your name, the name of the organization you represent and your contact information, including email address of each attendee, to CDIRegulations@insurance.ca.gov. Due to building security procedures, gaining access to the pre-notice public discussion may be difficult for those who do not RSVP.

The facilities for these public discussions are accessible to persons with mobility impairments. We ask that persons with sight or hearing impairments make special arrangements when they RSVP. Please direct all inquiries regarding these workshops to the contact persons named below.

REGULATION TEXT

For purposes of promoting discussion, a draft of the text of the proposed regulations is attached. Participants should be prepared to present specific comments on, and alternate language for, the attached draft regulation text during the public discussion. Participants are also invited to submit written statements and are encouraged to provide supporting documents and materials as well.

QUESTIONS FOR DISCUSSION

We also request that participants review the following inquiries, and prepare a response for discussion at and/or consideration in connection with the pre-notice public discussion:

1. What are the cost advantages to an employer of being insured under a large deductible plan? How many of your client companies use these plans? What proportion of your business do they represent?
2. What are your minimum size requirements for employers to be eligible for a large deductible policy? What is typical for an eligible employer, i.e. what is the average number of employees and gross receipts? Or what is the range of sizes of employers covered?
3. How do you determine what level of potential deductible obligation is too large for a particular potential deductible insured?
4. What are the types of collateral you allow? Are the following included? Are there any more beyond these: standby letters of credit; cash collateral; surety bonds; trusts?
5. Of these four types of collateral which are used most commonly in large deductible policies? What is the preferred method of collateralizing the healthiest, most credit worthy, insured employers? What is the preferred method of collateralizing the less creditworthy insured employers who still meet your minimum standards?
6. What are the costs and ease of access associated with each type of collateral? Which are more costly and which provide the insurer more security? Does cost effectiveness vary depending on the risk associated with the employer's credit standing? If so, how?
7. Do you insure any public entities using large deductible policies? How do public entities differ from private companies in their ability to collateralize?
8. What industries are prominently involved in large deductible policies?

PUBLIC INPUT REGARDING ALTERNATIVES

The proposed regulations are intended to benefit the California workers' compensation insurance marketplace by promoting its security, protecting California employees, and managing insurer insolvency risks. Alternatives to the proposed regulation currently being considered by the Department include 1) Limiting the section of the regulation dealing with credit requirements to large deductible policies of \$100,000 or more, and 2) Expanding the collateral requirements to provide protection for all lines and/or all states for which exposure to deductible loss exists under the specific deductible policy,

without being restricted to provide reimbursement for only California workers' compensation claims. The Department seeks your input as to whether these or any other alternatives you may wish to propose would also provide the same benefits, while being at least as cost effective.

THIS IS NOT A FORMAL PUBLIC HEARING ON THESE REGULATIONS

Please be advised that participation in these pre-notice public discussions will be in addition to, and not in substitution for, any participation in the formal rulemaking process. This invitation to pre-notice public discussions does not constitute a Notice of Proposed Action under the Administrative Procedure Act. Consequently, comments (oral or written) received in connection with these pre-notice public discussions will not be included in the rulemaking file, which will not be opened until the time formal notice is issued. Similarly, the Department is not required to respond to comments received before the Notice of Proposed Action has been issued and the rulemaking file opened. For this reason, if you wish to have comments included in the rulemaking file, or to require the California Department of Insurance to respond to them as part of the process by which it adopts this regulation, you must present your comments during the formal public comment period according to the procedures outlined in the Notice of Proposed Action at the time that document is issued, regardless of whether the comments have been made in connection with these pre-notice public discussions. The Commissioner nonetheless welcomes your participation in these discussions, and hopes that the regulations that may subsequently be proposed will benefit from your input.

CONTACT PERSONS

All substantive questions and concerns regarding the contemplated regulations and/or these public discussions should be directed to Brent Yim.

RSVP and Logistical Inquiries

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Substantive Inquiries

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