



Date of Notice: January 31, 2014

PUBLIC NOTICE

A PUBLIC MEETING OF THE GOVERNING BOARD OF THE CALIFORNIA EARTHQUAKE AUTHORITY

NOTICE IS HEREBY GIVEN that the Governing Board of the California Earthquake Authority (“CEA”) will meet in Sacramento, California. Pursuant to California Insurance Code §10089.7, subdivision (j), the Bagley-Keene Open Meeting Act applies generally to meetings of the Board, and the meeting is open to the public—public participation, comments, and questions will be welcome for each agenda item. All items are appropriate for action if the Governing Board wishes to take action. Agenda items may be taken out of order.

**LOCATION: State Capitol
Room 447 (Fourth Floor)
Sacramento, California**

DATE: Monday, February 10, 2014

TIME: 10:00 a.m.

AGENDA:

1. Call to order and member roll call:

Governor
Treasurer
Insurance Commissioner
Speaker of the Assembly
Chair of the Senate Rules Committee

Establishment of a quorum

2. Chief Executive Officer Glenn Pomeroy, assisted by CEA executive staff, will ask that the Governing Board adopt a resolution of sponsorship and support of proposed legislation that would modify the present law, which provides that insurers selling residential property insurance in California must also offer, on defined terms and under defined conditions, earthquake insurance.

3. Chief Communications Officer Chris Nance will seek Board approval of a contract to support the services of a newly selected contractor to provide the CEA with marketing and strategic communications services.
4. The Board will meet in closed session to discuss personnel matters and litigation matters, as permitted by California Government Code section 11126, subdivisions (a) and (e), respectively.
5. Public comment on items that do not appear on this agenda and public requests that those matters be placed on a future agenda.
6. Adjournment.

For further information about this notice or its contents:

General Information:

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To view this notice on the CEA Web site or to learn more about the CEA, please visit www.EarthquakeAuthority.com

Persons with disabilities may request special accommodations at this or any future Governing Board meeting or request the accommodation necessary to receive agendas or materials the CEA prepares for its Board meetings.

Please contact Marc Keller by telephone, toll-free, at (877) 797-4300 or by email at Marc_Keller@calquake.com. We would appreciate hearing from you at least five days before the meeting date to best allow us to meet your needs.

NOTE: You might have received this notice because your name, or that of your organization, appears on a public-notice list maintained by the California Earthquake Authority. If in the future you do not wish to receive public notices pertaining to the California Earthquake Authority, please send your request by email to Marc_Keller@calquake.com.

Governing Board Memorandum

February 10, 2014

Agenda Item 2: Proposed CEA sponsorship of legislation to update and replace California's 30-year-old law requiring a 'mandatory offer' of earthquake insurance

Recommended Action: Resolve to support CEA sponsorship of legislation to modernize California's 'mandatory offer' law and appropriately address CEA statutory expenses

Background

Since the mid-1980s—before the 1989 Loma Prieta or 1994 Northridge earthquakes, 10 years before the era of the earthquake “mini-policy,” and well before the CEA opened its doors—insurers selling homeowners insurance have been required by law to offer their customers earthquake insurance.

But CEA-staff initiatives, which have included wide-ranging discussions/presentations with interested parties and research by CEA staff and numerous interested parties accomplished over the past few months, have revealed a developing consensus: California's “mandatory-earthquake-insurance-offer” could successfully be replaced, and the law changed, to allow residential earthquake insurance to be marketed and sold in the same modern, multimedia, highly effective manner as is homeowners or auto insurance.

Looking back to the years immediately after the Northridge earthquake, fully half of the cost of rebuilding damaged homes was paid for by earthquake insurance, much more frequently purchased then than now. At today's earthquake-insurance take-up rate of only about 11%, it is reliably estimated that were Northridge to reoccur today, *less than a quarter of the cost of rebuilding damaged homes would be insured*. The deficit is truly huge: some \$5 billion will *not* be paid for through insurance.

It may be that some years will pass before earthquake-insurance take-up approaches 1994 levels. But this financial-preparedness chasm can—and must—be addressed, starting now. Modernizing this 30-year-old law that is out of step with modern tastes and preferences is essential.

Analysis

CEA staff has prepared a draft bill (attached), which has been submitted to the Office of Legislative Counsel for a top-level legal and legislative-language review but not yet introduced as active legislation.

A number of stakeholders and stakeholder groups have been furnished the CEA draft, which itself was prepared with the assistance and helpful input of many such groups, including insurers, regulators, and consumer advocates. There has been a helpful flow of information back to the

CEA on the proposal, which CEA has been listening to and tracking carefully for use in the process, going forward. Staff intends, and is actively reaching out, to make sure the process is collaborative, open, and transparent.

The heart of the proposal is the literal replacement—for CEA participating insurers—of the present legal mandate to send an occasional, dense and highly legalistic “offer” of earthquake insurance to their homeowners-insurance customers. The way that earthquake insurance is sold to California’s home-insurance customers would change to one that is fresh, modern, and conversational. This is how modern businesses, including the CEA’s participating insurers, sell their own products—following the new marketing norms of active social media, effective television/radio/print advertising, and a constant/in-touch online presence.

The new process would have appropriate flexibility, as well, so that messages and approaches could be adjusted for changing markets, influential but unexpected events (including earthquakes), and new participating insurers or participating insurers that change their marketing approaches. The CEA, of course, would also benefit significantly from the new flexibility.

There is an important aspect of the proposal that will be discussed as any proposal moves forward: Any new communication process raises the clear possibility of new costs and expenses, to support the new efforts. The CEA staff has been clear in discussions with stakeholders, that with the looming crunch caused by low quake-insurance take-up virtually demanding broad, fresh, and new approaches to effectively marketing and selling earthquake insurance, some costs may rise—and the CEA should do its part in covering those costs. For that reason, the new proposal should address the present CEA “expense cap,” which actually dates back to the original CEA legislation in 1996.

Of course the Board is aware that the new legislative proposal and its implications for CEA expenditures are not the only reasons to consider afresh the CEA’s expense cap: The CEA’s having driven down its rates by over 45% in the past 15 years clearly depresses any expense cap based on the resulting total premium. CEA operations and initiatives, which make possible large rate cuts and policyholder-friendly products, also require appropriate funding. And this fact makes expense adjustment a clear and present consideration.

There is ongoing discussion about the expense-level matter, both inside and outside the CEA, and no conclusions have been reached—there remains work to be done. For purposes of moving on the proposal (which states a simple change: moving the present 3% cap to 5%) through the Board’s resolution of support, however, while preserving the merits of the expense issue, CEA staff recommends that a bill be introduced with Board support and using all the present proposal language, but that working on that issue toward an appropriate conclusion also be supported.

Recommendation: The CEA staff recommends that the Board:

1. Adopt the broadly framed resolution of support that has been provided for this meeting.
2. Authorize CEO Glenn Pomeroy, assisted by CEA staff, to move forward with the legislative proposal to modernize the mandatory-offer law and address CEA expenses, empowered to take such steps as may be appropriate and necessary to further all of the described goals of the proposal.

Proposed Amendments to California Insurance Code:
Modifications to Earthquake Insurance ‘Mandatory-Offer’ Requirement
for Participating Insurers of the California Earthquake Authority

SECTION 1. Section 10081 of the Insurance Code is amended to read:

10081. Except as provided in section 10081.1, no ~~no~~ policy of residential property insurance may be issued or delivered or, with respect to policies in effect on the effective date of this chapter, initially renewed in this state by any insurer unless the named insured is offered coverage for loss or damage caused by the peril of earthquake as provided in this chapter. That coverage may be provided in the policy of residential property insurance itself, either by specific policy provision or endorsement, or in a separate policy or certificate of insurance which specifically provides coverage for loss or damage caused by the peril of earthquake alone or in combination with other perils.

SECTION 2. Section 10081.1 is added to the Insurance Code to read:

Section 10081 does not apply to any insurer that participates in the California Earthquake Authority pursuant to Chapter 8.6 of Part 1 of Division 2. Each authority participating insurer shall provide notice to all of its residential property insurance policyholders of the availability of earthquake insurance coverage in the manner required by section 10089.42.

SECTION 3. Section 10085 of the Insurance Code is amended to read:

10085. If the insurer establishes proof of mailing or delivery of the ~~required offer that is required under section 10081~~ and the offer of earthquake coverage is not accepted by the named insured within 30 days from the date of mailing or delivery of the offer, there shall be a conclusive presumption that the named insured elected not to accept the coverage. An election, actual or presumed, by any named insured shall be binding upon any other person insured or any other party having an insurable interest in the insured property.

SECTION 4. Section 10086 of the Insurance Code is amended to read:

10086. (a) If an offer of earthquake coverage made pursuant to section 10081 is accepted, the coverage shall be continued at the applicable rates and conditions for the policy term, provided the policy of residential property insurance is not terminated by the named insured or insurer.

(1) At any renewal, an insurer may modify the terms and conditions of an existing policy, rider, or endorsement providing coverage against loss or damage caused by the peril of earthquake if the modified terms and conditions provide the minimum coverages required by Section 10089.

(2) An insurer that modifies the terms and conditions of an existing policy, rider, or endorsement shall provide the insured with the renewal

notice in a stand-alone disclosure document stating the changes in the terms and conditions of the insured's existing policy, rider, or endorsement. Proof of mailing of the disclosure document by first-class mail to a named insured at the mailing address shown on the policy or application creates a conclusive presumption that the disclosure document was provided. The disclosure shall include the following statement in 14-point boldface type:

THE COVERAGE IN THE POLICY WE ARE OFFERING YOU WITH THIS RENEWAL HAS BEEN REDUCED, AND SUBSTANTIALLY DIFFERS FROM THE COVERAGES PROVIDED BY YOUR HOMEOWNERS' POLICY. INSURANCE COMPANIES ARE ALLOWED TO RENEW EARTHQUAKE INSURANCE POLICIES WITH COVERAGE THAT IS REDUCED FROM THE COVERAGE YOU PREVIOUSLY PURCHASED. YOU MAY REQUEST A SAMPLE COPY OF THIS NEW POLICY TO REVIEW PRIOR TO MAKING A DECISION TO ACCEPT THIS RENEWAL, AND WE WILL MAIL OR DELIVER IT TO YOU WITHIN 14 DAYS OF YOUR REQUEST. A REQUEST FOR THE SAMPLE COPY SHALL NOT CHANGE OR EXTEND THE POLICY EXPIRATION DATE SPECIFIED IN THE RENEWAL NOTICE. A SUMMARY OF THE CHANGES IS INCLUDED WITH THIS NOTICE.

The commissioner shall approve the form of the summary at the time he or she approves the policy. The summary shall include the information contained in subdivision (a) of Section 10083, and may be included with the renewal notice in standard type.

The commissioner may approve substantially similar disclosure forms if necessary to accurately disclose relevant information to the policyholder. The commissioner may also approve disclosure forms substantially similar to the disclosure statement required by Section 10083 if necessary to accurately disclose relevant information to the policyholder.

~~—(3) If the earthquake coverage is provided by a policy issued by the California Earthquake Authority, the following disclosure shall be provided in 14 point boldface type:~~

~~CALIFORNIA EARTHQUAKE AUTHORITY POLICY DISCLOSURE
— THIS POLICY IS BEING PURCHASED FROM THE CALIFORNIA EARTHQUAKE AUTHORITY ("CEA"). THE COVERAGE IN THIS CEA POLICY SUBSTANTIALLY DIFFERS FROM THE COVERAGES PROVIDED IN YOUR HOMEOWNER'S POLICY. THE CEA IS NOT PART OF OR ASSOCIATED WITH YOUR HOMEOWNER'S INSURANCE COMPANY. IF LOSSES AS A RESULT OF AN EARTHQUAKE OR A SERIES OF EARTHQUAKES EXCEED THE AVAILABLE RESOURCES OF THE CEA, THIS POLICY IS NOT COVERED BY THE CALIFORNIA INSURANCE GUARANTY ASSOCIATION. THEREFORE, THE CALIFORNIA INSURANCE GUARANTY ASSOCIATION WILL NOT PAY YOUR CLAIMS OR PROTECT YOUR ASSETS IF THE CEA BECOMES INSOLVENT AND IS UNABLE TO MAKE PAYMENTS AS PROMISED. IN ADDITION, YOUR CEA POLICY MAY BE SUBJECT TO FUTURE SURCHARGES OF THE POLICY PREMIUM IN CERTAIN CASES WHERE AN EARTHQUAKE OR SERIES OF EARTHQUAKES HAS EXCEEDED AVAILABLE RESOURCES TO PAY CLAIMS. IN THAT CASE, THIS MEANS THAT IN ADDITION TO THE ANNUAL PREMIUM, YOU MAY BE CHARGED UP TO AN ADDITIONAL 20% OF THE PREMIUM.~~

(b) If the offer of earthquake coverage made pursuant to section 10081 is not accepted, the insurer or any affiliated insurer shall be required on an every other year basis to offer earthquake coverage in connection with any continuation, renewal, or reinstatement of the policy following any lapse thereof, or with respect to any other policy that extends, changes, supersedes, or replaces the policy of residential property insurance.

(c) Nothing in this section shall preclude the named insured from terminating the earthquake coverage at any time.

SECTION 5. Section 10089.6 of the Insurance Code is amended to read:

10089.6. (a) There is hereby created the California Earthquake Authority, which shall be administered under the authority of the commissioner and have the powers conferred by this chapter. The authority shall be authorized to transact insurance in this state as necessary to sell policies of basic residential earthquake insurance in the manner set forth in Sections 10089.26, 10089.27, and 10089.28. The authority shall have no authority to transact any other type of insurance business.

(b) (1) The investments of the authority shall be limited to those securities eligible under Section 16430 of the Government Code.

(2) The rights, obligations, and duties owed by the authority to its insureds, beneficiaries of insureds, and applicants for insurance shall be the same as the rights, obligations, and duties owed by insurers to its insureds, beneficiaries of insureds and applicants for insurance under common law, regulations, and statutes. The authority shall be liable to its insureds, beneficiaries of insureds, and applicants for insurance as an insurer is liable to its insureds, beneficiaries of insureds, and applicants for insurance under common law, regulations, and statutes.

(c) The operating expenses of the authority shall be capped at not more than 53 percent of the premium income received by the authority. The funds shall be available to pay any advocacy fees awarded in a proceeding under subdivision (c) of Section 10089.11.

SECTION 6. Section 10089.26 of the Insurance Code is amended to read:

10089.26. (a) The authority shall issue policies of basic residential earthquake insurance, including earthquake loss assessment policies for individual condominium unit properties, to any owner of a qualifying residential property, as long as the owner has secured a policy of residential property insurance from a participating insurer. A policy of residential earthquake insurance written by the authority shall be effective upon receipt by the participating insurer of both (1) the completed authority-approved application for the policy, signed by the applicant, and (2) either the annual premium or the first installment of the annual premium.

(1) For purposes of this section, earthquake loss assessment coverage shall be issued in a minimum amount of fifty thousand dollars (\$50,000) for individual condominium units valued at more than one hundred thirty-five thousand dollars (\$135,000). Earthquake loss assessment coverage shall be issued in a minimum amount of twenty-five thousand dollars (\$25,000) for individual condominium units of one hundred thirty-five thousand dollars (\$135,000) in value or less. The value of the land shall be excluded when determining the value of the condominium, as it relates to the earthquake loss assessment coverage offered by the authority.

(2) The panel shall submit to the board, and the board shall approve, rates for earthquake loss assessment coverage that reasonably balance the earthquake loss assessment coverages offered and the potential exposure to earthquake loss resulting from an earthquake loss assessment policy as compared to the coverages offered and the potential exposure to earthquake loss resulting from residential property other than individual condominium policies.

It is the intent of the Legislature, to the extent practicable, that rates charged by the authority to condominium loss assessment policyholders and

residential property owner policyholders are treated equitably, and that a proportionate share of premiums is paid for potential exposure to loss, to the authority.

(b) Nothing in this section shall prohibit a participating or nonparticipating insurer from offering a condominium earthquake loss assessment policy for different amounts of coverage other than those offered by the authority.

SECTION 7. Section 10089.28 of the Insurance Code is amended to read:

10089.28. (a) All policies of residential earthquake insurance provided by the authority shall be written by the authority. Authority policies shall be marketed and policyholders serviced by the participating insurer that writes the underlying policy of residential property insurance, and participating insurers shall be reasonably compensated for the claims and policyholder services they provide on behalf of the authority. Authority services may be performed on behalf of the authority in any reasonable manner by the participating insurer that is in compliance with statutory, regulatory, and case laws regarding claims handling practices; provided, however, where the authority has promulgated specific procedures to govern its operations, the participating insurer shall conform its practices to those procedures. The authority procedures shall comply with statutory, regulatory, and case law governing claims handling practices. Nothing in this provision shall be deemed or construed to affect any duty or liability of the authority or participating carrier as set forth in paragraphs (2) and (3) of subdivision (e) of Section 10089.7.

~~(b) The participating insurer shall notify each of its insureds that the authority is the provider of earthquake coverage under the policy. The form and method of notice shall meet standards established by the commissioner by regulation. Concurrent with the issuance or renewal by the authority of a residential earthquake insurance policy the participating insurer shall provide the following disclosure to the insured in 14-point boldface type:~~

California Earthquake Authority Policy Disclosure

You have purchased a California Earthquake Authority ("CEA") earthquake insurance policy, which can help you cover the cost of repairing damage to your property and possessions caused by an earthquake.

The CEA is not part of your homeowners insurance company.

Please keep in mind these important things about your CEA insurance policy:

1. CEA policy coverages are different from the coverages provided in your homeowners insurance policy. For example, this policy does not cover earthquake damage to swimming pools, and it may provide more limited coverage for chimneys, outbuildings, and masonry fences. These are examples of possible differences between your CEA policy and your homeowners policy, and you should consult your CEA policy to understand the types of losses that are limited or excluded and those that are covered.
2. If CEA's liability for earthquake losses exceeds the CEA's available resources the CEA may reduce its payment to you or pay you in installments. This policy is not covered by the California Insurance Guarantee Association and therefore the California

Insurance Guarantee Association will not pay your claims if the CEA becomes insolvent and is unable to make payments as promised.
3. In certain cases, your CEA policy premium may be subject to future surcharges if the CEA's obligations to pay earthquake losses rise to a pre-defined level. In that case, in addition to your annual premium you may be charged up to an additional 20% of that premium.

(c) The authority shall provide to participating insurers appropriate applications and forms and shall maintain records of all policies written, moneys received, and claims paid.

~~(e)~~(d) The duty of an agent or broker to investigate the financial condition of the authority before placement of insurance shall be the same as the duty of an agent or broker to investigate the financial condition of an admitted insurer before placement of a policy of insurance.

SECTION 8. Section 10089.41 of the Insurance Code is amended to read:

10089.41. (a) Compliance with the provisions of section 10089.42 by a participating insurer shall also constitute compliance by that participating insurer with Chapter 8.5 (commencing with Section 10081) of Part 1 of Division 2, and as set forth in Section 10084.

(b) If the authority ceases operation for any reason, including, but not limited to, repeal of this chapter or insolvency of the authority, participating carriers shall ~~no longer be able to satisfy the requirement be required to offer residential earthquake insurance coverage by placement within the authority pursuant to Section 10081.~~ The commissioner shall adopt a schedule in accordance with subdivision (a) of Section 10089.35 to establish when participating carriers shall be required to offer coverage ~~by another mode authorized pursuant to Chapter 8.5 (commencing with Section 10081) of Part 1 of Division 2~~ to those policyholders for whom they write the underlying policies of residential property insurance.

(c) If the authority ceases operation pursuant to a statute enacted by the Legislature, that statute shall determine the duty of participating insurers to provide earthquake insurance pursuant to Chapter 8.5 (commencing with Section 10081). Chapter 8.5 (commencing with Section 10081) shall remain in effect unless specifically repealed by that statute.

SECTION 9. Section 10089.42 is added to the Insurance Code to read:

10089.42. (a) No policy of residential property insurance may be issued, delivered or renewed in this state, by any participating insurer unless the named insured is provided notice of the availability of residential earthquake insurance from the authority within 60 days of issuance or renewal of the insured's residential insurance policy. The notice required by this paragraph shall:

- (1) Notify the insured that the residential property insurance policy does not provide coverage for loss or damage caused by the peril of earthquake;
- (2) Disclose that the insured can apply at any time through the participating insurer for insurance issued by the authority that covers loss or damage caused by the peril of earthquake;

(3) Notify the insured that a policy of residential earthquake insurance from the authority provides different protection, and in some cases less protection, than the residential property insurance policy;

(4) Inform the insured of the amounts of premium and deductible applicable to base-limits authority earthquake insurance coverage;

(5) Direct the insured to an Internet website maintained by the participating insurer or by the authority, or jointly by both, where the insured can obtain premium estimates and information on additional earthquake insurance coverages, coverage limits, deductibles, and other policy and coverage features for a residential earthquake insurance policy from the authority; and

(6) Direct the insured to an Internet website or toll-free telephone number, or both, where the insured can be referred to or speak with a representative or broker-agent of the participating insurer who can facilitate the preparation and receipt of an application for residential earthquake insurance written by the authority.

(b) The participating insurer may, but shall not be required to, provide notice under this section to any insured who has purchased through that participating insurer, and has in force, a residential earthquake insurance policy written by the authority.

(c) The authority shall prepare forms of notice for use by participating insurers and submit them to the commissioner for approval. The commissioner shall approve a form of notice if it accurately discloses the information required by paragraph (a). Forms of notice are not required to reproduce in identical form the disclosures and advice set forth in paragraph (a), and they may contain provisions additional to those set forth in subdivision (a), so long as the additional provisions do not conflict with this section.

(d) (1) The notice required by this section may be made electronically pursuant to Section 38.5.

(2) Proof of mailing of any notice required by this section by first-class mail to a named insured at the mailing address shown on the policy or application, or proof consistent with Section 38.5 that the notice was sent to the named insured or applicant by electronic transmission, creates a conclusive presumption that the notice required by this section was provided.

Governing Board Memorandum

February 10, 2014

Agenda Item: 3

Report on CEA procurement process and proposed agreement for Strategic Communications and Marketing

Recommended Action:

Approve agreement to support communications and marketing services by newly selected contractor

Background:

On October 31, 2013, the CEA issued a request for qualifications (RFQ #10-13) to identify and qualify a contractor to serve, beginning in early 2014, as the lead firm to assist the CEA in facilitating, developing, and preparing sales, marketing, and post-earthquake campaigns, materials, and communications.

Analysis:

Five firms and respondent groups responded to the CEA's RFQ, seeking to demonstrate their qualifications to become the CEA's Strategic Communications and Marketing Contractor. All gave in-person presentations to the CEA selection team.

Using announced evaluation elements and scoring criteria, the CEA selection team decided that three of the five respondents stood out for their combined written submissions and oral presentations, and the team invited back those three for an opportunity to deliver a more robust presentation.

Of the three firms delivering second-round presentations, two stood out and were selected to participate in the final stage of selection: a more in-depth site visit by the CEA selection team, aimed at challenging each of the two finalist-proposers to grapple with actual CEA-related marketing and communications issues, and demonstrate both their creativity and their knowledge and understanding of the CEA.

After all scoring for all stages of the selection process was complete, the highest-scoring respondent team was notified that it had secured the opportunity to negotiate a contract with the CEA for marketing, public relations, and strategic communications/public affairs services. The winning team was San Diego-based marketing/ad agency AdEase, which has teamed with public relations and communications firm Burson Marsteller.

The subjects of the agreement presented today are key components of the CEA's strategic business strategy under the newly adopted CEA Strategic Plan. The agreement itself will serve to apportion, regulate, and direct—for a term of three to five years—the bulk of the CEA's

spending and organization-wide efforts devoted to marketing and communications, including post-earthquake communications.

All spending will be accomplished in 2014 according to the 2014 CEA budget and communications-spending plan, which the CEA Governing Board formally approved in two stages: on May 23, 2013 (see Agenda Item 6, for an initial 2014-budget approval) and on December 16, 2013 (see Agenda Item 18 for the remaining 2014-budget approval).

As with all CEA expenditures, the entirety of the spending under this agreement will be accomplished using only CEA revenues, which consist solely of CEA-policyholder premiums and returns on CEA's invested funds.

The agreement will be updated each year and presented to the Board, to reflect and direct the latest Board-approved budget levels.

Recommendation:

1. Approve the presented agreement between CEA and AdEase to support marketing, public relations/affairs, and strategic-communications services by the successful respondent team, which was selected through CEA's RFQ #10-13, with contract-supported spending to take place within Governing Board-approved budgets for 2014.
2. Approve the agreement's execution on behalf of the CEA by CEO Glenn Pomeroy.