

Classification Title: Attorney IV	Branch/Division/Bureau: Legal Branch
Working Title:	Office/Unit/Section/Geographic Location: Los Angeles or Sacramento or Oakland
Position Number (13 Digit): 413-234-5780-005	Conflict of Interest Position: <input type="checkbox"/> NO <input checked="" type="checkbox"/> YES
Employee Name:	Effective Date:

BASIC FUNCTION:

Proposition 103 is a series of statutes passed by voters in 1988 that require property and casualty insurers to obtain the Insurance Commissioner's prior approval before changing the rates charged to consumers in California. The Attorney IV in the Rate Enforcement Bureau is not required to be a Subject Matter Expert on Proposition 103 at the time of hire, but may and will receive on the job training in this area of law. When hired, the Attorney IV will have at least ten years of legal experience in the practice of law, including significant experience with complex general litigation, legal research and writing, oral advocacy, and/or settlement negotiations, as well as some prior writ and/or appellate experience.

Under the general direction of the Assistant Chief Counsel of the Rate Enforcement Bureau, the Attorney IV handles the more complex and sensitive cases involving insurance rating and underwriting and enforcement of Proposition 103 and acts in a lead capacity on a wide range of tasks including by representing the Department in difficult administrative hearings over intervened prior approval rate applications and/or alleged violations of California law by insurance companies. The Attorney IV works independently, with broad discretion, handling the most complex and difficult tasks requiring detailed knowledge of, and great experience in, litigation, legal discovery, insurance, contracts, and business law, as well as actuarial, economic, scientific, and financial matters. Additional tasks include: working with outside counsel in complex litigation when the Department retains outside counsel; conducting more difficult legal research involving Proposition 103 and related issues; negotiating as the Department's representative in the more complex cases; analyzing and drafting legislation; representing the Commissioner in legislative hearings with regard to the more sensitive, difficult, and complex legislation; providing legal opinions to the various branches of the Department regarding the more difficult and novel legal issues involving insurance rating and underwriting, including issues involving insurance availability and affordability; drafting regulations and supporting materials, and conducting rulemaking proceedings for the adoption of the more sensitive and complex Department regulations; and when appropriate, recommending and conducting investigatory hearings.

- Occasional travel may be required within and/or outside the state of California via private or public transportation (i.e., automobile, airplane, etc.)
- Travel may include overnight stay.

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This position is designated under the Conflict of Interest Code. The position is responsible for making or participating in the making of governmental decisions that may potentially have a material effect on personal financial interests. The appointee is required to complete Form 700 within 30 days of appointment. Failure to comply with the Conflict of Interest Code requirements may void the appointment.

ESSENTIAL FUNCTIONS*

35% Handles the more complex and technical insurance rating and underwriting litigation in California Superior, Appellate and the Supreme Court and in front of an Administrative Law Judge. Knowledge of complicated subject matter ranging from the fields of finance and economics to actuarial science and other scientific disciplines (e.g., earth sciences such as geology, seismology and physics for earthquake insurance; sophisticated computer models for homeowners' and earthquake insurance). Identifies issues, necessary factual investigations, and legal research. Prepares direct testimony and cross examinations of opposing expert witnesses which requires a thorough understanding of the broadest spectrum of highly specialized areas such as statistics (e.g., regression analyses to determine loss or premium trends), actuarial science, (including loss development factor calculations) economics, (cost of capital models including Discounted Cash Flow and Capital Asset Pricing Model methods). In the case of homeowners' insurance examination of complicated models for replacement construction cost indices or credit scoring models; and in the case of earthquake insurance familiarity with such scientific concepts as the Gutenberg Richter Recurrence relationship; intrinsic and parametric uncertainty; time dependent modeling; earthquake fault slip rates, which affect the size and frequency of earthquakes; attenuation relationships, which determine how the shaking decreases over distance; and vulnerability relationships, which determine the amount of damage to a structure given a certain amount of shaking, and various issues involving losses due to wildfires. Handles, prioritizes, and coordinates all facets of the Department's cases, including, but not limited to motions, subpoenas, extensive discovery, pre-trial preparations, trial and post-trial activities and briefs, as well as researches and drafts pleadings, propose orders, and interviews and coordinates the appearance of witnesses. Hearings typically involve confidential trade secret information for which a confidentiality agreement is required, and/or various anti-trust matters.

Represents the Department in court and administrative hearings that can last several months, involve numerous witnesses (most of them expert witnesses) and thousands of pages of hearing transcripts coupled with thousands of pages of documentary evidence. These hearings may include extensive pre-hearing preparation, complex discovery proceedings and sensitive, high stakes settlement negotiations. Millions of dollars per year on an ongoing basis are often at stake in prior approval cases.

25% Represents the Department in the more complex, technical, and sensitive cases arising following Field Rating and Underwriting Examinations and other referrals from the Consumer Services and Market Conduct Branch alleging violations of California's rating and underwriting laws. Various statistical and extrapolation theories are often at issue in determining the number of violations. Prepares complex pleadings pursuant

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to applicable provisions of the Insurance Code for cases to be tried in California Superior, Appellate and the Supreme Court or before an administrative law judge. Independently determines case strategy; conducts legal research on complex and legal issues of first impression regarding insurance rating and underwriting; prepares and responds to extensive and complex discovery requests; prepares, responds to, and argues complex motions; represents the Department at settlement meetings and conferences; prepares Department, consumer, and expert witnesses for hearings; prepares pre-hearing conference statements, represents the Department at pre-hearing conferences; issues subpoenas; represents the Department during the hearings, including presenting and cross-examining witnesses; prepares post-hearing briefs on emerging legal issues; and drafts settlement documents.

- 30%** Provides legal counsel to various Department management. Requires a highly sophisticated knowledge and understanding of the more complex subject matter before a legal opinion can be rendered. May represent the Insurance Commissioner on various committees or boards, such as the California Automobile Assigned Risk Plan advisory committee (California Insurance Code §111623) the California Earthquake Authority Governing Board (California Insurance Code §10089.7 (a) or the California Earthquake Authority Advisory Panel (California Insurance Code §10089.7 (b)). Provides legal advice regarding matters involving the availability and affordability of many lines of insurance, some of which consumers are legally required to purchase (e.g., automobile liability, professional liability, commercial multi-peril) or may be otherwise required by, for example, a lender (homeowners' insurance). New, emerging areas of the law constantly surface following new developments in the marketplace. Must have expertise in sophisticated computer models used to set the rates which requires proficiency in, for example, earth sciences, determining losses resulting from wildfires, and replacement cost methodology. Analyzes models and provides legal advice in this complex and technical area to ensure that insurance remains both affordable and available, in a non-discriminatory fashion and in accordance with legal requirements. Provides legal advice on new insurance related legal issues constantly emerging, such as presented in the emerging "sharing economy" (e.g., Uber, Lyft, Airbnb), self-driving automobiles, the appropriate regulation of title insurance (an area of law impacted by many other regulatory provisions, such as the federal Real Estate Settlement Practices Act (RESPA), lender placed insurance (also subject to related federal regulation), legal advice regarding primary jurisdiction referrals from superior court on issues where the superior court is requesting the Commissioner's input, and legal advice regarding rating issues arising in connection with implementation of the federal Terrorism Risk Insurance Program.

MARGINAL FUNCTIONS

- 10%** Drafts Legislation and Regulations on Complex Rating, Underwriting, Actuarial, and Financial Issues. Analyzes and drafts proposed legislation involving the most complicated rating and financial issues (such as rate adequacy, reinsurance or capital market securitization). Negotiates with Legislative staff members and other interested persons during this process and testifies at hearings on the bill. Identifies regulatory solutions to emerging rating and underwriting issues, analyzes alternatives and drafts

regulations, working with Department technical staff and insurer and consumer representatives. Addresses concerns raised by other parties, acts as lead counsel throughout the regulation adoption process, including, when appropriate, serving as presiding officer at regulatory hearings. Recommends use of investigatory hearings as necessary and serves as lead counsel and/or presiding officer throughout the investigatory hearing process.

WORK ENVIRONMENT OR PHYSICAL ABILITIES

Work Environment:

- Work in a high-rise office building

I have read and understand the duties listed above and I can perform these duties with or without reasonable accommodation. (If you believe reasonable accommodation is necessary, discuss your concerns with the hiring supervisor. If unsure of a need for reasonable accommodation, inform the hiring supervisor, who will discuss your concerns with the Health & Safety Analyst.)

Employee Signature

Date

Printed Name

I have discussed the duties of this position with and have provided a copy of this duty statement to the employee named above.

Supervisor Signature

Date

Printed Name