



Personal Insurance Federation of California

California's Personal Lines Trade Association

REPRESENTING THE LEADING AUTOMOBILE AND HOMEOWNERS INSURERS

State Farm • Farmers • 21st Century Insurance Group • SAFECO • Progressive

MEMORANDUM

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Date: April 28, 2003

To: The Honorable Juan Vargas, Chair
Members, Assembly Insurance Committee

From: Dan C. Dunmoyer, President
G. Diane Colborn, Vice President of Legislative and Regulatory Affairs
Michael A. Gunning, Senior Legislative Advocate

RE: AB 81 (Wyland): Insurance: Underwriting: Information
Assembly Insurance Committee Hearing: April 30, 2003
PIFC Position: Concerns

AB 81 is one of several bills which have been introduced in the Legislature this year in response to concerns regarding the homeowners insurance market in California. While PIFC agrees with the intent of AB 81 to ensure that homeowners are not treated unfairly based on a mere inquiry, we want to caution the Legislature that restrictions on underwriting if not narrowly tailored may create a disincentive for companies to write homeowners insurance and thereby serve to reduce availability and further harden the homeowners insurance market. Although PIFC is not opposed to AB 81 *as introduced* we would urge the Legislature to consider carefully any proposed broadening of the provisions of the bill that might have such an adverse affect on the market.

AB 81 prohibits a company from basing an adverse underwriting decision on a prior inquiry appearing on a loss history report that did not result in the filing of a claim. PIFC agrees with the intent of AB 81, which is to prevent mere inquiries that the policyholder did not intend to be treated as a claim from forming the basis for a policy rejection. The challenge is in distinguishing between an inquiry that the policyholder does not intend to file as a claim, and a communication that the policyholder does intend to file as a claim. Insurers understandably err on the side of treating communications from policyholders regarding property losses as claims, unless it is clear that the policyholder does not intend to file a claim. This preserves the policyholder's rights under the policy. Current regulations require insurers to treat a contact from a policyholder as a notice of claim if the communication "reasonably apprises the insurer that the claimant wishes to make a claim." Although the regulations further clarify that a "notice of claim" does not include communications made solely for information or incident reporting purposes, the emphasis in the regulations is clearly on encouraging the insurer to treat most communications regarding losses as claims in order to protect the policyholder's rights under the policy and promptly handle the claim. The regulations require the agent or claims representative to immediately forward the notice of claim to the insurer, and the insurer is required to act promptly in processing the claim. Requiring an insurer to obtain confirmation from a policyholder or claimant of their intent to file a claim before treating a coverage inquiry or other contact as a claim could help provide some certainty, but

must be done in a manner that does not slow down the claims process or disadvantage the consumer.

In order to accurately underwrite and rate new policies, insurers need to have access to prior loss history information, since such information is relevant to the future risk of loss being underwritten by the insurer. Actuarial data indicates that a property with prior losses is statistically much more likely to result in future claims than a property with no prior losses.

For the past several years homeowners insurance has not been a profitable line for insurers. Until the underlying conditions that have contributed to increased claims costs, inadequate premium volume, and limited capacity are addressed, placing restrictions on the ability of insurers to underwrite or rate based on prior losses will not open up the homeowners market, or make homeowners insurance more available. For these reasons, we urge the Legislature to proceed cautiously in enacting measures that could have unintended adverse impacts on the market. Thank you for your consideration of our concerns. If you have any questions, please contact Diane Colborn at (916) 442-6646.

cc: Honorable Mark Wyland, Author
Ann Richardson, Deputy Legislative Secretary, Governor's Office
Chris Clay, Assembly Insurance Committee
Assembly Republican Caucus