



# 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

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## MEMORANDUM

**Date:** March 26, 2003

**To:** The Honorable Jackie Speier, Chair  
Members, Senate Insurance Committee

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

**Re:** SB 64 (Speier): Homeowners' Insurance  
Senate Insurance Committee Hearing: April 2, 2003  
PIFIC Position: **Oppose Unless Amended**

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The Personal Insurance Federation of California, representing insurers who write over 40% of the homeowners' insurance policies in California, **opposes unless amended** SB 64 by Senator Speier. SB 64 attempts to address concerns regarding the availability and affordability of homeowners insurance in California, but does so in a manner that will unfortunately make matters worse by creating further disincentives for insurers to do business in California, and exacerbating the current hard market conditions. Although well intentioned, SB 64 focuses on symptoms rather than underlying causes, which include increases in claims costs, limited industry capacity, and the inability of companies to obtain adequate rates to cover incurred losses under California's regulatory system.

### PIFIC's key concerns with SB 64 include the following:

- ◆ **SB 64 will have the unintended effect of reducing the availability of homeowners insurance by discouraging companies from entering or remaining in the homeowners insurance market in California.** A reduction in availability will push rates up even farther by reducing the competitiveness of the market.
- ◆ **SB 64 will have the likely effect of seriously destabilizing the homeowners insurance market by creating a strong disincentive for companies to offer homeowners insurance at all in this state.** It does this by severely restricting insurers' ability to manage their book of business and underwrite homeowners' insurance policies. SB 64 denies companies the ability to utilize traditional tools necessary to manage their exposure to loss and ensure the future financial integrity of the company.
- ◆ **SB 64 essentially requires insurers to "take all comers" and "keep all takers," regardless of the insurer's capacity to assume those risks.** The bill does this by requiring insurers to accept virtually all new policy applications, with the narrow exception of those properties that are "uninsurable," or in cases of certain types of fraud or criminal activity. A property would be "uninsurable" only under the very narrow circumstance where it was impossible to reasonably estimate the frequency and severity of future losses.

- ◆ **SB 64 is being proposed at the worst possible time when companies are already exiting the state and have no incentive to invest capital in California in a line of business where they are not assured of obtaining either adequate rates or being able to utilize appropriate tools for managing their loss exposure.**

#### **Requirement for Written Verification of Claim**

In addition to the above problems, PIFC also has concerns with other provisions of the bill that require insurers to obtain written verification from the insured within 30 days of their intent to file a claim. We understand the intent of this section is to provide greater certainty in distinguishing between mere inquiries and claims, and acknowledge that there may be a need for greater clarity on this point. However, the requirement to obtain written verification will slow down the claims handling process to the detriment of the consumer. The majority of claims are handled in the office over the phone. This will require policyholders to submit a written verification of each claim; a requirement policyholders are not currently required to comply with. This could be particularly problematic in times of crisis when the consumer is best served by the insurer acting promptly to issue additional living expense checks and process the claim.

Under current regulations, insurers are required 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 as claims in order to protect the policyholder’s interests under the policy and promptly handle the claim. The agent or claims representative is required to immediately forward the notice of claim to the insurer, and the insurer is required to take specific actions within 15 days.

Under SB 64, insurers will have to require a written verification on every claim. While this might in some cases address ambiguity between a notice of claim and an inquiry in those rare occasions where there is a question, it would do so at the price of great inconvenience for the majority of claimants. It is also unclear what the consequences are if the insured fails to provide the written verification. Is the insurer precluded from processing the claim? From paying the claim? What if payment has been made on the claim but the insured still fails to provide the written verification? On new business, how will the insurer determine if the prior insurer obtained the written verification, and whether the loss reported was intended by the insured to be a claim? Unfortunately, the language of SB 64 raises more questions than it solves.

#### **Ban on Use of Credit Scores**

Finally, SB 64 completely bans the use of any credit related information in the underwriting or rating of homeowners insurance. Numerous independent studies show that there is a strong correlation between insurance-based credit scores, which look at different factors than the credit scores used by lenders, and the risk of future loss under an insurance policy. In fact, in states where insurance-based credit scores are allowed, the vast majority of policyholders benefit in the form of substantial rate decreases. The use of credit information is a fact of life today and affects all consumers in many ways, including getting a job, finding a place to live, securing a loan, getting a telephone and buying insurance. Consumers need to know what is in their credit report and learn more about how credit affects them. While some regulation of the use of credit information may be appropriate, a complete ban on such use, as proposed by SB 64, is not justified and will work to the disadvantage of most consumers.

For all these reasons, **PIFC must oppose SB 64 and urges a no vote** on the bill when it is heard in committee. Thank you for your consideration of our views. If you have any questions regarding PIFC position, please do not hesitate to contact Diane Colborn at (916) 442-6646.

cc: Ann Richardson, Deputy Legislative Secretary, Governor’s Office  
Brian Perkins, Senate Insurance Committee  
Dan Chick, Senate Republican Caucus  
Senate Floor Analyses