



April 14, 2015

TO: Senator Hannah Beth Jackson, Chairwoman, Senate Judiciary Committee
Members, Senate Judiciary Committee

FR: ACLHIC, ACIC, AIA, CIWA, NAMIC, PADIC & PIFC

On behalf of the undersigned insurance trade associations, we must respectfully express concerns with SB 585, as introduced on February 26, 2015. While we applaud the intent of the legislation and are committed to identifying solutions to these initial objections, we must, at this point, oppose the bill, unless amended. We have two principal objections: 1) the details of turning a currently-voluntary program into a mandatory one need significant attention; and 2) the penalty provision, which threatens revoking an insurer's license or imposing punitive fines and penalties, is excessive, especially in situations where parties in good faith would be working to comply with this new mandatory program.

The Details of this New Program Need Significant, Additional Consideration

SB 585, sponsored by the California Department of Insurance (CDI), muddies the water by introducing a mandatory program for which a procedure is "to be determined" at a later date, and grants the CDI too much discretion over the types of claims subjected to this mandatory withholding.

We strongly believe that SB 585, as written, may have the unintended consequence of disrupting the voluntary participation of insurers who currently willingly participate in the permissive Federal program. Further, many insurers which we represent have no prior experience with or understanding of how the voluntary program works. The mandatory nature of this program could cause significant hardship to smaller companies and offers no indemnity to participants who have been voluntarily collaborating. Furthermore, we understand that several other states have enacted similar programs, yet we are concerned that a California specific program, even with only minor modifications to the Federal model would cause undue confusion and expense to insurers who conduct business in multiple states

A Rush to Committee Hearing Is Unfair to Stakeholders and Inconsistent with Deliberation

The insurers represented by the undersigned trade associations have met with the sponsor of this bill and have tried to provide meaningful feedback. We understand that additional draft amendments are being considered and we are looking forward to the sponsor circulating the draft amendments with all of the interested parties.

However, it is unclear at this time if two of the biggest remaining issues, which are the ability to issue guidance and the penalty provision, are going to be addressed to our satisfaction. Therefore, we are in the unfortunate position of having to remain in opposition to the bill but we are still hopeful that we will be able to resolve remaining issues.

We look forward to continuing to work collaboratively to develop amendments that allay our concerns and fulfil the noble intent and goal of SB 585.

cc: The Honorable Connie Leyva
Robert Herrell, California Department of Insurance
Nichole Rapier, Consultant, Senate Judiciary Committee