



September 4, 2012

The Honorable Edmund G. Brown, Jr.
Governor of California
State Capitol, First Floor
Sacramento, CA 95814

Dear Governor Brown,

The above listed organizations urge you to veto AB 2160 by Assemblyman Bob Blumenfield.

AB 2160 would impose new requirements and costs on only those insurance companies that are domiciled in California. Insurers from other states would not have to comply. We believe this is the opposite of the policy of your administration which seeks to encourage California businesses.

Although the bill has a worthy objective, AB 2160 intrudes upon federal authority over foreign relations and is also pre-empted by federal law.

Insurers currently comply with State Department and the Department of Treasury rules that prohibit investments in Iran. Federal courts have consistently held that state legislation pertaining to foreign policy cannot interfere with the federal government's primacy in that area. The only time the states can legislate in the foreign policy arena is in the limited circumstance when the federal government gives the states explicit authority to do so. The federal government has not done so with respect to the matters that AB 2160 would cover.

On July 1, 2010, President Barack Obama signed into law the "Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010." As the title clearly implies, the bill makes very clear that this is a federal issue. The sweeping federal bill only authorizes state and local government entities to divest their own assets, or prohibit their investments, in Iran investment activities. Indeed, this Legislature has already passed legislation that relies on that provision. AB 1650 (Feuer and Blumenfield), which was signed into law in 2010, prohibits state and local government from having contracts with any entity that has direct or indirect investments in Iran. A clear reading of Section 202 of the federal bill indicates, however, that it does not authorize what is contemplated in AB 2160.

Since the passage of the federal Iran bill, Congress has added that the bill shall not be "construed to abridge the authority of a State to issue and enforce rules governing the safety, soundness, and solvency" of insurers. But AB 2160 has nothing to do with the "safety, soundness and solvency" of insurers. AB 2160 penalizes California domestic insurers – and only California domestic insurers – that invest in any business on a list compiled by the Department of General Services (DGS). By law, DGS can only place a company on that list if that company "provides goods or

services of twenty million dollars (\$20,000,000) or more in the energy sector of Iran.” Nowhere is there a determination that investments in these businesses threaten the “safety, soundness and solvency” of insurers.

States have extensive powers over insurers and their investments to protect solvency and ensure insurers are able to pay claims when necessary. Insurers are required to place the vast majority of investments into low-risk / low yield investments. The insurance industry is one of the largest purchasers of municipal bonds issued by state and local governments. In 2009, insurers owned \$45.4 billion in California municipal bonds. The amount each company needs to invest in these types of investments is set by statute and designed to protect each company’s solvency. Restrictions like those in AB 2160 are, by definition, not necessary to protect a company’s solvency.

Former Commissioner Steve Poizner attempted to restrict legal investments as proposed in AB 2160. The insurance trade associations sued the department over the regulations and later entered into a voluntary agreement with Commissioner Jones. The Department of Insurance posts the following explanation on the department’s website: “On January 27, 2012, Commissioner Dave Jones announced the settlement of litigation relating to the Department's efforts to curtail insurer investments in companies doing business in Iran.” As a result of this settlement, insurers will no longer be required to file quarterly reports regarding their Iran-related investment activities, nor will such investments be disallowed for purposes of determining the financial solvency of insurers.

The Commissioner retains the power to independently review and publicize the names of insurers with investments in Iran-related businesses. The Commissioner also retains the power to make public a list of businesses directly engaged in the Iranian nuclear, military or energy sectors of Iran. As a result of this settlement, the insurance industry does more than any other industry in the state regarding investments in Iran

AB 2160 is inconsistent with the recent settlement of litigation between the Commissioner and several insurance trade associations. If signed, the bill could force the insurance industry to challenge its provisions as unconstitutional. These legal issues would then have to be sorted out in court, and a suit would spread cost to California taxpayers, as well as to those insurers who are domiciled in this state. The fact is, insurers can choose any state as their state of domicile. Over the last few years, an increasing number of California-based insurers have chosen other states, such as Nebraska. AB 2160 would add to the burdens of any company that has decided to choose California. This anti-California policy is the opposite of your professed policies.

For the foregoing reasons, the above listed trade associations request your veto on AB 2160.