



April 10, 2018

To: The Honorable Jay Obernolte
Member, California State Assembly

Re: **AB 2611 (Obernolte): Residential Property Insurance (As Amended March 22, 2018)**
Position: Oppose

The above listed associations (The “Trades”), representing the majority of the property and casualty insurance market share in California, must respectfully oppose Assembly Bill 2611 (Obernolte). This bill would significantly restrict the use of innovative, sophisticated and more accurate underwriting tools that enhance insurers’ ability to make homeowners insurance available in wildfire risk areas of California.

AB 2611 provides that an insured or applicant could challenge an insurer’s professional assessment of risk if the insurer uses a wildfire risk model in its underwriting or premium determinations. In the event of an appeal, an insurer would have to justify any adverse underwriting decisions by providing an onerous list of specific reasons including, but not limited to, “each factual and legal basis known.” The bill would also expand the Department of Insurance’s regulatory authority beyond its current purview to create an additional layer of review of such underwriting decisions.

Assembly Bill 2611 will take away Innovative Tools and Threaten Availability of Homeowners Insurance in Wildfire Areas

Key to underwriting insurance, insurers need the ability to assess a risk as accurately as possible in order to make responsible decisions to protect all insurance consumers. Wildfire risk models, which use innovative satellite imagery that considers a host of factors, (such as vegetation, slope, aspect, and road accessibility) provide insurers more sophisticated and accurate tools to better assess risk. Before the availability of these tools, insurers were forced to deny writing homeowners insurance in broader areas because they could not accurately assess the risk. It was more responsible for an insurer to deny the business than chance overexposure and/or rate inadequacy that could jeopardize stability of claims paying capabilities for insurance customers elsewhere in the state, or result in subsidization.

Wildfire risk models have provided insurers a new competitive tool and knowledge that enables them to write insurance in areas where they may not have been able to before. Placing unrealistic or burdensome requirements on the use of wildfire risk models will deter insurers from utilizing these tools, and result in threatening the availability of homeowners insurance in certain wildfire areas.

Assembly Bill 2611 will Require Insurers to Share Proprietary Information

Currently, a homeowner can request its insurer to review its underwriting decisions, and confirm that information is correct. Further, existing law already requires an insurer provide specific reasons for an adverse underwriting decision, per Insurance Code Section 791.10. AB 2611, however, would go much further, by requiring an expansive explanation of the interworking's of how an individual insurer conducts its business and determines what risk to take. The broad language of the bill requires a highly detailed list of "each factual and legal basis known." Insurers' underwriting procedures have always been recognized as highly proprietary for competitive purposes. AB 2611 would require a list of "each" basis for the decision, which would likely result in an exhaustive list of reasons, including providing complex algorithms, in order to comply with the law, and will likely encourage litigation over a what constitutes a "legal basis" and what should have been "known." Finally, the broad definition of wildfire risk model: "a computer-based, map-based, or other measurement or simulation tool used by an insurer to rate, underwrite or otherwise assess or evaluate the risk of wildfire or consequence of wildfire to residential structures," would require insurers to essentially open up all of their proprietary underwriting tools to their competitors.

Assembly Bill 2611 will Expand the Department of Insurance's Power and Irresponsibly Increase Insurers' Risk

Under Proposition 103, the Department of Insurance ("Department") has broad regulatory authority over insurers' rates. With the highest rate regulation in the nation, delays in rate approvals are already some of the highest in the nation¹. There is no indication that this will be any different for reviewing underwriting decisions which has never been in the Department's purview. Currently the Department of Insurance ("Department") approves underwriting guidelines, prior to their use. AB 2611 will create a new regulatory unit within the Department of Insurance ("Department") to later review underwriting determinations based on these guidelines. There is no justification for providing the Department with the power to question sound underwriting determinations.

AB 2611 could also result in mandating insurers to irresponsibly take on risk without adequate rates, and subject them to over-exposure to wildfire risk. The bill requires that insurers not make adverse underwriting decisions during the pendency of an appeal. Because of the inherent delays in the appeals process set up in the bill, insurers could have unaccounted for risks on their books for lengthy periods of time; further, once a risk has been taken, California Insurance Code Section 676 prohibits an insurer from cancelling a policy midterm, except under very limited circumstances such as non-payment of premium or fraud. Since, under AB 2611, an insurer would have to take on the risk while a review is underway, the insurer would have the risk on its books regardless of the appeal outcome for a full policy period. Requiring insurers to take on risks in such an irresponsible manner will result in over-exposure to wildfire risks for some insurers, thus subjecting homeowners in the rest of the state to the risk.

AB 2611, will take away important innovative, underwriting tools that enable insurers to make available homeowners insurance in wildfire risk areas of the state. An insurer will have to weigh the value of these tools against opening up their proprietary books and not being able to responsibly underwrite. Without these tools, homeowners insurance will become less available in wildfire areas.

¹ R Street Policy Study: 2015 The Troublesome Legacy of Prop 103

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For the above reasons, the Trades respectfully must **oppose AB 2611**, and urge your no vote.

Should you have any questions, please contact Kara Cross, Personal Insurance Federation of California ([916-442-6646](tel:916-442-6646)/kcross@pifc.org); Mark Sektnan, Property and Casualty Insurers Association of America ([916-449-1370](tel:916-449-1370)/mark.sektnan@pciaa.net); Katherine Pettibone, American Insurance Association ([916-873-3677](tel:916-873-3677)/kpettibone@aiadc.org); Shari McHugh, Pacific Association of Domestic Insurance Companies ([916-930-1993](tel:916-930-1993)/smchugh@mchughgr.com); or Christian Rataj, National Association of Mutual Insurance Companies ([303-907-0587](tel:303-907-0587)/crataj@namic.org)

cc Honorable Members, Assembly Insurance Committee
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