



## UPDATED

May 2, 2013

**To:** The Honorable Henry T. Perea, Chair  
The Honorable Curt C. Hagman, Vice Chair  
Members, Assembly Insurance Committee

**Re: OPPOSED:** AB 862 (Wieckowski) Automobile Insurance: Underinsured Motorist Coverage, as Amended 5/1/13

The American Insurance Association (AIA), the Association of California Insurance Companies (ACIC), the Civil Justice Association of California (CJAC), the California Chamber of Commerce, the National Association of Mutual Insurance Companies (NAMIC), the Pacific Association of Domestic Insurance Companies (PADIC), and the Personal Insurance Federation of California (PIFC) respectfully **oppose AB 862 Automobile Insurance: Underinsured Motorist Coverage by Assemblymember Wieckowski.**

**Nothing in the recent amendments addresses our concerns about "how the bill creates new" insurance company and agent liability. Furthermore, the proposed disclosure description would further confuse consumers "in their selection of appropriate insurance coverage" and complicate the purchase of these policies. We also strongly disagree with language that states, "...the Legislature finds and declares that it is in the public interest that consumers have additional options available when purchasing automobile liability insurance" because it is "an unfounded opinion not a substantiated fact, is" misleading and fails to recognize all of the existing "insurance" options available to consumers today.**

AB 862 would give insurance companies the option to offer consumers a "non-setoff" policy and require insurers to provide an explanation to the consumer of the benefits of a non-setoff Uninsured Motorist (UIM) policy, as well as an explanation of any additional costs the insured would incur by purchasing that policy.

AB 862 is unnecessary. At this time there is no legitimate public interest or public policy argument to support introducing this type of coverage into the marketplace, especially when it is likely to confuse insurance consumers. Nothing in current law, or the marketplace, prevents a consumer from purchasing higher coverage. AB 862 needlessly requires insurers to spend money on relabeling their current UM/UIM coverage product and creates an administrative burden that may actually prevent insurers from developing and marketing such a product. AB 862 is also fraught with litigation risks: paving the way for a litigation gold mine on behalf of the consumer attorneys. Although the bill makes the UM/UIM coverage the insurer offers

“optional,” the obvious goal of the plaintiff's bar is to increase the amount of money available in automobile lawsuits so that awards, including attorney's fees, are more lucrative.

Our collective experience with offering this type of coverage in other states is that such offers invariably result in the filing of meritless lawsuits by consumer attorneys on behalf of consumers who claim that their insurance agent did not offer the coverage or that such coverage was not adequately explained to them as a purchase option. AB 862 will not only increase the cost of insurance, it would encourage more lawsuits with more dubious claims.

We believe that AB 862 will also have a detrimental impact on our agents. The disclosure requirements of the bill will create additional liability exposure for agents and insurers, require the creation, processing, and retention of new legal paperwork and administrative procedures, and lead to lawsuits by consumers who complain, after-the-fact, that they were not adequately briefed on the type of coverage options available to them. Finally, we know AB 862 will inject new costs to the California auto insurance market, and we are concerned that what is currently an “option” will morph, either legislatively, or as a result of the practical reality associated with having to document that a thorough explanation of the non-set-off UIM coverage was provided to the policyholder and knowingly rejected by the consumer, into a mandate or de-facto mandate over time.

For the reasons stated above we **oppose AB 862 Automobile Insurance: Underinsured Motorist Coverage by Assemblymember Wieckowski and urge your “nay” vote.** If you have any questions regarding our position, please contact either Steve Suchil at (916) 442-7617, Armand Feliciano at (916) 440-1117, Katherine Pettibone at (916) 443-4900, Christian Rataj at (303) 907-0587, or Michael A. Gunning at (916) 442-6646.

cc: Assemblymember Bob Wieckowski, Author  
Mark Rakich, Chief Consultant, Assembly Insurance Committee  
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Gareth Elliot, Secretary of Legislative Affairs, Office of the Governor