



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: April 20, 2005

To: The Honorable Juan Vargas, Chair
Members, Assembly Insurance Committee

From: Dan C. Dunmoyer, President
Rex D. Frazier, Vice President & General Counsel
Michael A. Gunning, Senior Legislative Advocate
Michael A. Paiva, Senior Legislative Advocate

Re: AB 1043 (Harman) Insurance: Unearned Premium
As Amended April 13, 2005
Assembly Insurance Committee Hearing: April 27, 2005
PIFC Position: Oppose unless amended

The Personal Insurance Federation of California (PIFC), representing insurers who write over 50% of all personal lines insurance sold in California, **is opposed unless amended to AB 1043**, authored by Assembly Member Harman.

PIFC is generally supportive of the concepts in AB 1043. However, PIFC requests changes to three provisions of AB 1043:

First, AB 1043 provides that, when tendering unearned premium to an insured, an insurer shall provide both the insured and the associated producer with a clear, concise and easy to comprehend accounting and explanation of how the amount of such return premium was calculated. PIFC requests that such a requirement apply "upon request" of an insured, rather than automatically. Such an accounting and explanation is likely to be a custom document produced by the insurer and not all insureds will want such a document. While insureds should have access to such information upon request, it is unnecessary and expensive to require insurers to generate a document in which an insured has no interest.

Second, AB 1043 contemplates that the Insurance Commissioner shall promulgate regulations defining the standards for the return premium accounting and explanation. PIFC does not believe it is necessary to promulgate regulations on such a narrow and straightforward requirement. It is certainly not necessary to *require* regulations. If regulations must be mentioned at all in AB 1043, PIFC requests that AB 1043 be amended to allow, but not require, the Insurance Commissioner to issue regulations on this topic.

Third, AB 1043 provides that, whenever an insurer endorses, rejects, declines, cancels or surrenders an "auditable" policy of commercial insurance, an insurer must tender the gross unearned premium to an insured within 75 days. This time period is

arbitrary. In many circumstances, a 75 day period will be sufficient to enable an insurer to conduct a premium audit and tender any unearned premium. However, it is unlikely that 75 days will be sufficient in all cases.

AB 1043 addresses this third issue, in part, by relieving an insurer from compliance with the 75 day deadline when the final, unearned premium cannot be determined due to an insured's failure, in breach of a policy requirement, to cooperate with an insurer in a premium audit. While this provision is well-intentioned, it does not provide a bright enough line for an insurer to determine whether the 75 day deadline applies. An insured may believe it is being sufficiently helpful to facilitate a premium audit while an insurer, at the same time, believes the contrary. In such a case, an insured will demand payment within 75 days and an insurer will accuse such insured of breach of contract.

PIFC requests that AB 1043 be amended to provide more certainty as to when the 75 day deadline will not apply. Specifically, PIFC requests that AB 1043 be amended to require insurers to tender return premium within 75 days following the date that an insured provides all documentation necessary to enable a premium audit.

For the reasons stated above, **PIFC opposes AB 1043 unless amended** as set forth above. If you have any questions, please contact Rex Frazier at (916) 442-6646.

cc: Honorable Tom Harman, Author
Assembly Insurance Committee
Assembly Republican Caucus
Richard Costigan, Legislative Secretary for the Governor
Cynthia Bryant, Deputy Legislative Secretary for the Governor
Scott Reid, Office of the Insurance Advisor