



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 30, 2004

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

From: Dan C. Dunmoyer, President
G. Diane Colborn, Vice President of Legislative and Regulatory Affairs
Michael A. Gunning, Senior Legislative Advocate

RE: AB 2962 (Pavley): Fire Insurance: Valuation of Loss
Assembly Insurance Committee Hearing: May 5, 2004
PIFC Position: Oppose

The Personal Insurance Federation of California, representing insurers who write nearly 45% of the homeowners' insurance policies sold in California **opposes AB 2962** authored by Assembly Member Pavley. AB 2962 makes several changes to the measure of recovery under a homeowner's insurance policy. The changes, and PIFC's objections to the changes, include the following:

- ◆ PIFC's major concern is with the last part of (b)(2) (lines 19 through 22 on page 2) which provide that if the insured expresses his or her intent to repair, rebuild, or replace the thing lost or injured, a deduction for physical loss depreciation shall not apply to the labor necessary to repair or replace the thing lost or injured. This provision is inconsistent with existing case law which recognizes depreciation of labor in actual cash value payments. Disallowing depreciation has the affect of converting an actual cash value policy into a replacement cost policy. This will increase the cost of the policy and reduce the choices available to low-income homebuyers.

If the labor component is not separately itemized as a specific charge, the practical effect of this provision could be to disallow any deduction for depreciation. The unit cost basis is a commonly accepted industry practice, for both the insurance and construction industries. Separating out labor and material cost components will be costly and impractical, and in some cases impossible. Disallowing depreciation provides policyholders with betterment, rather than making them whole, and will result in higher claims payouts which in turn will increase insurance premiums. This issue is also an issue that is currently in dispute in the litigation over the RH399 amendments to the Fair Claims Practices regulations. For all of these reasons, PIFC recommends that a period be inserted on line 18, after the word "property" and that the rest of that section (lines 19 through 22) be stricken.

- ◆ The bill, as proposed to be amended would also add a new sentence providing that in determining depreciation of a partial loss to the structure, a deduction for physical depreciation shall only apply to components of a structure that are normally subject to repair and replacement during the useful life of that structure. This section lacks clarity and will create uncertainty for insurers since it is unclear how it will be interpreted by the CDI.

For the reasons stated above **PIFC opposes AB 2962 and urges your no vote on this measure.** If you have any questions regarding this position please contact Diane Colborn at (916) 442-6646.

cc: Assembly Member Pavley, Author
Annabelle Chang, Assembly Insurance Committee
Kevin Hanley, Assembly Republican Caucus
Cynthia Bryant, Office of the Governor
Scott Reid, Office of the Insurance Advisor
Christine Collopy, Department of Insurance