



Personal Insurance Federation of California

California's Personal Lines Trade Association

REPRESENTING THE LEADING AUTOMOBILE AND HOMEOWNERS INSURERS

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Date: May 20, 2003

To: Members, California Assembly

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

Re: AB 95 (Corbett): Private Actions
Assembly Third Reading File: May 22, 2003
PIFC Position: Oppose

The Personal Insurance Federation of California **opposes AB 95** by Assemblywoman Corbett. While the author's intent with AB 95 may be to "reform" the Unfair Competition Law (Section 17200 et seq), in reality AB 95 would do little to reduce the abuses of this law, and in fact would create new incentives for more lawsuits.

The most troubling provision of AB 95 is the provision double-joining the bill to SB 122(Escutia). SB 122 would authorize "disgorgement" as an additional remedy in Section 17200 cases. Currently, the existing law limits attorneys who bring representative actions on behalf of the public at large, and without an identifiable plaintiff or any evidence of actual harm, to injunctive relief and attorneys fees. SB 122 would also allow "disgorgement" of earnings generated from the alleged unfair practice. This change would overturn the California Supreme Court's decision in *Kraus v. Trinity Management Services* (96 Cal.Rptr.2d 485). The language authorizing disgorgement is very broad, contains no standards, and would give a private attorney bent on threatening businesses with Section 17200 lawsuits additional leverage to coerce settlements. The other modest provisions of the bill, such as the mandatory demand letter and court review of agreements to pay attorneys fees, will be of minimal benefit, and may even be intimidating to small businesses.

Several other substantive proposals were introduced this year in the Legislature that would produce real reform of Section 17200 actions, including AB 69(Correa), AB 102(Pacheco), and SB 912(Ackerman). Unfortunately, these bills were all defeated in the Judiciary Committees of the respective houses of the Legislature.

Substantive reform of Section 17200 is clearly needed to address the abuses of the law, highlighted most recently by the rash of lawsuits filed against businesses throughout the state for minor technical alleged violations. Meaningful reforms would address such issues as standing, actual harm, and res judicata. However, AB 95 does not contain the kind of substantive reform that is needed and would only serve to increase rather than decrease abuses and overreaching by plaintiff's attorneys under Section 17200. For all these reasons, PIFC urges a "no" vote on AB 95.

cc: Honorable Ellen Corbett, Author
Ann Richardson, Deputy Legislative Secretary, Governor's Office
Kevin Hanley, Assembly Republican Caucus