



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 • NAMIC

UPDATED MEMORANDUM

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Date: April 25, 2005

To: The Honorable Jackie Speier, Chair
Members, Senate Banking, Finance and 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: SB 150 (Escutia): Insurance: Adverse Underwriting Decisions
As Amended April 4, 2005
Senate Banking, Finance and Insurance Committee Hearing: April 27, 2005
PIFC Position: Oppose

The Personal Insurance Federation of California (PIFC), representing insurers who write over 50% of all personal lines insurance sold in California, including State Farm, Farmers, Safeco, 21st Century, Progressive, and NAMIC, **opposes SB 150** authored by Senator Escutia.

PIFC is opposed to SB 150 for the following four key reasons:

Section 1: Under current California law an insurance company, upon the request of the policyholder or applicant for insurance, is obligated to provide specific information regarding an adverse underwriting action that would negatively impact the consumer. SB 150 will add to the existing requirement by making all insurers provide a specific reason or reasons for an adverse decision regardless of whether or not the policyholder or applicant has requested this information.

Although at first blush this may appear to be acceptable, this measure has the unintended consequence of adding substantial cost to the insurance underwriting process while providing very limited benefit to the consumer. It is the goal of the insurance industry that when there is a question regarding an adverse underwriting action, that the consumer immediately contact their agent or company if they have questions or concerns regarding that action. Our members' goal is not to create an enhanced paperwork mechanism but to encourage personal communication between a consumer and their insurance company and agents. If the consumer does desire to have this adverse action in writing, it is afforded in statute and is a far preferred method to addressing this issue than requiring substantial amounts of paperwork that will be readily discarded by the super majority of consumers and only utilized by a small handful of people. The cost-benefit analysis points to the fact that this section is too costly to merit the limited benefit.

Section 2: Requires in the case of personal automobile coverage that if an insurer uses an insurance support organization to obtain information regarding the policyholder's prior claims history that this information must contain a number of enumerated pieces of information. Current practice for the industry is to provide some of this information to data collectors. We do not see any benefit to require that this specific information be mandated to be provided by statute. **The information that is collected and utilized for underwriting purposes for consumers is already protected by the Fair Credit Reporting Act (FCRA) and is subject to review and challenge by consumers if in fact there is a dispute on the veracity of the information making this bill unnecessary.**

Under federal law, if an insurer takes an adverse action based upon information received by a third-party vendor then the consumer is to be notified of this fact and the consumer is to be afforded the right to challenge and contest this information. Under federal law, the consumer also is required to receive a response within 45 days regarding the challenge of accuracy of this information. Current law is adequate to address the concerns associated with this section of law and that requiring additional burdens upon insurers does nothing to improve the underlying system of insurance or provide fairness or balance for consumers. The costs associated with this change compared to the minimal benefit are not justified.

Section 3: SB 150 prohibits an insurer from submitting any information to an insurance-support organization with respect to automobile or homeowners' insurance claims unless all information required by this bill is submitted in conjunction with the claim information. Again, we do not believe any true benefit is received by the effort, energy, and cost associated with requiring insurers to submit information that is not used in the underwriting process. Moreover, to the extent that some of the data elements are ambiguous (e.g., "a description of the specific cause of the loss"), carriers will not be certain when they have given enough information to satisfy SB 150's requirements – inevitably leading to over-disclosure of personal information to claims databases. This is in the opposite direction of legislative trends to keep personal, identifying information out of the hands of third-party vendors. Furthermore, if an insurer has "incomplete" data, but fraud or other criminal activity is detected, we see no reason to preclude the reporting of the fraudulent act.

Give new laws a chance to succeed before adding more: In 2003, Governor Davis signed legislation to mandate additional disclosures on policies. AB 1181 by Assembly Member Ridley-Thomas (Chapter 360 of the 2003 Statutes) and AB 1191 by Assembly Member Wiggins (Chapter 571 of the 2003 Statutes) will provide additional information to auto and homeowners' insurance policyholders but have not been given time to go into effect or succeed. We feel it is prudent to wait for these statutes to take an effect before trying to fix a problem that may not need repair.

In conclusion, SB 150 creates an unnecessary and costly mandate on insurers that provides little or no benefit that is not already afforded through existing law, and for this reason **PIFC opposes SB 150** (Escutia). If you have any questions, please contact Dan Dunmoyer at (916) 442-6646.

cc: Senator Escutia, Author
Brian Perkins, Senate Banking, Finance, and Insurance Committee
Tim Conaghan, Senate Republican Caucus
Richard Costigan, Legislative Secretary for the Governor
Cynthia Bryant, Deputy Legislative Secretary for the Governor
Scott Reid, Office of the Insurance Advisor
Senate Floor Analyses