



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

MEMORANDUM

STAFF

Dan Dunmoyer
President

Rex D. Frazier
*Vice President &
General Counsel*

Michael Gunning
Senior Legislative Advocate

Michael Paiva
Senior Legislative Advocate

Jerry Davies
Director of Communications

Date: April 13, 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 2 (Speier): Homeowners' Insurance: Valuation
As Amended March 29, 2005
Senate Insurance Committee Hearing: April 20, 2005
PIFC Position: Oppose Unless Amended

The Personal Insurance Federation of California (PIFC), representing insurers who write 50% of all homeowners' insurance sold in California, **opposes SB 2 authored by Senator Speier unless it is amended.**

SB 2 would make a number of substantive changes to the way California insurance companies handle the adjusting and managing of claims following major fires and catastrophic losses. **PIFC is appreciative of a number of amendments the author has made to the measure but, regretfully must continue to oppose SB 2 unless amended to address the costs that will be added to millions of customers** that our member companies serve. Below is a more detailed analysis of our concerns.

Section 2 prohibits an insurance company from submitting a report of a claim filed under a fire/homeowners' insurance policy to any insurance-support organization unless it also provides every customer a copy of the report. PIFC believes that this mandate will add unnecessary costs to the homeowners' insurance system, especially since consumers are already protected in the event that an adverse underwriting decision is made from the use of an insurance support organization database.

Under the Fair Credit Reporting Act if an insurer makes an adverse decision based on the use of an insurance-support organization's information, the consumer is afforded the opportunity to review the information used and to have the information corrected if in fact there is an error. In discussions with some of the leading insurance-support organizations, they claim there are approximately 7 complaints registered for every 10,000 reports provided to consumers. Less than 4 of these complaints result in actual changes to the information where errors do occur. **Because of the small number of complaints associated with the use of insurance-support organization data, as well as the guarantee under federal law for the right of the consumer to correct this**

information in a timely manner (45 days or less), we believe that the additional cost associated with Section 2 is unmerited.

Section 3 makes a couple of changes to the broker and agent licensing requirements including enhanced curriculum and instruction for fire and casualty agents. PIFC members are supportive of enhanced education of fire and casualty broker and agents but believe that this measure may prove to have an unintended consequence in efforts to properly established coverage amounts. We are concerned that the explicit limitation only allows a licensed agent to recommend an appropriate level of coverages will actually preclude experts like architects, contractors, and designers who truly have the knowledge to estimate value.

Finally, it is our hope that this section can be further amended to clarify that the establishment of educational curriculum that address the issues of proper valuation of property be clearly addressed within the existing educational requirements of agents and brokers.

Section 4 of the measure also precludes an insurer from placing a time limit of less than 24 month for additional living expense (ALE) for an individual who has been dislocated following a major disaster. Although a number of the members have voluntarily provided 24 months of additional living expense coverage following he recent firestorms there is public policy merit in requiring some consumer responsibility during this 24 month time period. Specifically, is it fair to require an insurer to pay for additional months if the homeowner refuses to determine whether or not they wish to rebuild their home within the first or second year? Second, is it fair to require an insurer to pay for ALE if the homeowner decides to rebuild a substantially larger home (which has occurred on a number of occasions after the 2003 Southern California fires) and this requires additional months of approval from local planning commissions?

Although reduced to 85% of the contents coverage and only to primary residences, we continue to have grave concerns with the provisions contained in Section 4 which requires an insurer to pay 85% policy limits for the loss of personal property in the event that a home is involved in a Governor declared disaster. PIFC members are very sympathetic to the great challenges associated with a consumer fully determining the loss of contents in a total loss situation. However, the solution provided for in SB 2 will add substantial cost to the overall system of insurance in California and this cost will be borne by millions of individuals who are highly unlikely to suffer a total loss in a major wildfire.

Insurers are concerned about the trauma and challenges associated with the contents loss adjustment process and for that reason provide inventory specialists, buying services, expert reconfiguration adjustors, and other expertise to assist in this adjustment process. This measure would obviously provide greater ease to consumers who have a number of valuable contents and a house in which every room is substantially filled. Unfortunately, this section would also provide a windfall to individuals who have empty rooms or contents of limited replacement value. As is the case with the Southern California fires, our members have policyholders who had contents in excess of their contents coverage and individuals who had contents substantially less than their coverages. **In some cases individuals submitted claims for contents in amounts \$100,000's less than their contents coverage.** The effect of this amendment would allow individuals who do not have few contents to receive hundreds of thousands of dollars in coverage in excess of their sustained loss. This section would also allow individuals who have been afforded some time to secure trucks or rent moving vans to unload a substantial amount of their furniture and still be able to receive full payment for their furnishings even though they have retained them in storage.

Finally, this provision will also result in various tax challenges for these consumers because coverages paid in excess of actual losses are viewed as gains and will be taxed. **For one of our members, on average consumers would have received \$13,000 more in contents payouts**

than their actual loss in the most recent fire disasters if this section had been in effect. On the other hand if individuals have contents losses in excess of their coverage, they will still be required to provide full documentation of their contents to the IRS in order to properly deduct their losses that exceed the coverages provided by insurance. Although we realize that this process can be very challenging and time consuming this is an essential process to ensure that the insurance mechanism can operate fairly and affordably.

Section 6 requires an insurer to provide a homeowner following a loss under their policy a list of items the insurer believes may be covered under the policy for “alternative living expenses”. The purpose of this is to give consumers a basic idea of the traditional items that are paid for under this coverage. The second part of subsection b requires the insurer to provide a copy of the entire insurance policy within 30 working days unless the fire is included in a disaster area. We believe the first section of this subsection is redundant with the requirement contained in the second section. Insurers cut additional living expense checks and in doing so provide resources for the consumer until they can find a more permanent but still temporary residence. Because the insurance policy will provide the consumer with information regarding their coverages, we believe that providing an additional disclosure is duplicative. The purpose of this coverage is to allow people to live in a manner similar to what they are accustomed to before the fire; not to provide them a lesser or greater living situation. We believe that providing a copy of the policy is sufficient for assisting the consumer in making the claim.

Section 7 though 11 makes various changes to the existing post disaster mediation program. PIFC members are supportive of the removal of the sunset on the mediation program for both the homeowners’ and earthquake insurance program. **We have only one technical concern with the amendments made to this section that remove the ability for the Insurance Commissioner to disallow mediation where the Commissioner finds that the complaint is frivolous or the dispute turns on a question of major insurance coverage or purely legal interpretation or where it involves a dispute with an agent or broker.** Deletions of these sections found on page 8, line 15-31 should be reinserted into the overall program to ensure that the program can be effectively used. We do believe that the mediation program has proven to be a useful tool in a number of situations after both the Northridge earthquake and the Southern California fires and support the concept.

For the reasons stated above, **PIFC opposes SB 2** (Speier) unless the concerns raised above are addressed through amendments to the bill. If you have any questions regarding our position, please contact Dan Dunmoyer at (916) 442-6646.

cc: 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

4 SB2-SB02