



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: June 23, 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: SB 2 (Speier): Homeowners' Insurance: Valuation
As Amended June 21, 2005
Assembly Insurance Committee Hearing: June 29, 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 the 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, free of charge, 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 consumer 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 was substantially amended to address a number of our concerns, but it still contains language that is likely to result in litigation. Specifically, the phrase, “of recommending appropriate levels of coverage” is problematic and needs to be changed to state “provide information on available levels of coverage”. The customer is still the best person to know what coverages will best meet their needs, especially in the area of contents.

Section 4 of the measure precludes an insurer from placing a time limit of less than 24 months for additional living expenses (ALE) for an individual who has been dislocated following a major disaster. Although a number of our members have voluntarily provided 24 months of ALE coverage following the 2003 Southern California firestorms, there is public policy merit in requiring some consumer responsibility during this additional 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 69% of the time in certain neighborhoods after the 2003 Southern California fires) and this requires additional months of approval from local planning commissions? We propose the following language to address our concerns with this section:

(2) In the event of a loss relating to a state of emergency, as defined in Section 8558 of the Government Code, coverage for additional living expenses shall be extended to up to 24 months from the date of loss if additional time is required to repair or replace covered property necessary to make the premises habitable in accordance with the insurance policy provisions; however, the insurer shall not be required to pay past the time required for the insured to settle elsewhere, if the insured is not repairing or replacing the covered property. The extension herein provided shall not act to increase the additional living expense policy limits in force at the time of the loss. This subdivision shall not take effect until January 1, 2007.

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 require an insurer to pay 85% of policy limits for the loss of personal property in the event that a home is involved in a Governor declared disaster. PIFC member companies 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. This section would provide a windfall to individuals who have empty rooms or contents of limited replacement value. We would support some effort to provide a basic inventory sheet to assist in this effort but a mandate to pay for losses that have not occurred is bad public policy.

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 member companies, 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(a) requires an insurer to provide a policyholder with a list of items the insurer “believes may be covered” under the policy as additional living expenses. This section is problematic and

confusing. An insurance policy outlines the coverage provided to the customer. Creating an additional requirement to provide a list of potential coverages can be misleading and confusing to customers because some coverages may apply in some circumstances and some may not. If there is need to provide general information, the CDI should be tasked to provide a general information sheet on this coverage that can be maintained on their web page or distributed at disaster centers.

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 or Rex Frazier at (916) 442-6646.

cc: Senator Speier, Author
Christine Ebbink, Assembly Insurance Committee
Kevin Hanley, Assembly Republican Caucus
Cynthia Bryant, Deputy Legislative Secretary for the Governor
Scott Reid, Office of the Insurance Advisor

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