



# 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

## MEMORANDUM

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**Date:** May 5, 2003

**To:** The Honorable Jackie Speier, Chair  
Members, Senate Insurance Committee

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

**Re:** SB 396 (Florez): Securities Fraud  
Senate Insurance Committee Hearing: May 7, 2003  
**PIFIC Position: Oppose**

The Personal Insurance Federation of California, representing insurers who write over 30% of the personal lines insurance sold in California, **opposes SB 396** by Senator Florez. SB 396 proposes to amend Insurance Code Section 533 and overturn a longstanding principle of tort law which prohibits persons from insuring themselves against liability for their own intentional acts.

SB 396 contradicts the strong public policy reflected in Section 533 of the Insurance Code, that individuals should not be permitted to insure themselves against their own intentional or criminal acts. The law does not permit individuals or companies to shield themselves from liability for their own intentional or criminal acts, because to do so would create a moral hazard and encourage the commission of such acts. In this case, **SB 396 would allow corporate bad-actors to shield themselves from liability, and protect their own assets, by hiding behind their insurance coverage** and getting the insurance company to indemnify them for their intentional misconduct.

SB 396 also crosses over long established case law and interpretation of the "fortuitous" nature of insurance coverage. To allow corporations or corporate officers and directors to insure themselves against their own *future* intentional acts is clearly contrary to public policy, and would create an incentive for unscrupulous companies to commit such acts. It would do so because if they get caught, they could simply rely on their insurance policy to cover any damages and not put their own assets at risk! Such a policy is tantamount to allowing a property owner to be compensated under their insurance policy for arson.

SB 396 would also have a negative impact on the price and availability of insurance, if corporations could even find liability coverage at all if the bill were passed. For all these reasons, **PIFIC opposes SB 396 and urges a no vote** on this measure when it is heard in committee.

cc: Senator Florez, Author  
Ann Richardson, Office of the Governor  
Senate Insurance Committee  
Dan Chick, Senate Republican Caucus  
Senate Floor Analyses