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

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MEMORANDUM

Date: April 12, 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 518 (Kehoe): Homeowners' Insurance: Insurance Adjusters
As Amended March 29, 2005
Senate Banking, Finance and Insurance Committee: 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 518 authored by Senator Kehoe unless amended** to address our concerns.

SB 518, among other things, makes a number of changes to the way homeowners' insurers provide insurance in the state of California. Although there are sections of this measure that we believe are supportable, there are a number of other sections that will add substantial cost and complexity to the delivery of homeowners' insurance in California. For this reason, we are opposed unless amended.

Below is a more detailed analysis of our concerns by section.

Section 1-- Mandatory Data Reporting: SB 518 requires an insurer to submit biannually (twice a year) to the Insurance Commissioner a record of loss experience per exposure for each geographic area, including ZIP Code area, in which they provide residential insurance. PIFC member companies believe that there is no necessity for this section. In the CDI sponsor's document, the department states that the purpose of SB 518 is to "obtain much-needed information in a timely manner which will enable us (CDI) to better assist policy decision-makers, insurers, and consumers. Such information could be used, for example, to determine if their insurers "book of business" was over-concentrated in a particular area or to get better information on catastrophe losses." In its document, the CDI goes on to claim "the Department does not have the means to know immediately the probable maximum loss for a specific area or individual company."

Insurers already provide to the CDI information about written premium and exposures, so they currently have the information to assess exposure and maximum probable loss in a particular area. The information required by SB 518 is inconsistent with the need expressed in the sponsor document.

In addition, following the 2003 fire losses in Southern California and after the Northridge earthquake, the insurance industry has responded to data calls by the CDI to provide much of this specific information. SB 518, however, requires insurers to provide this information twice a year and then to do so by also providing specific proprietary information on the loss exposure by ZIP Code. When the Insurance Commissioner needs to know the financial status of an insurance company, the Commissioner has the authority to request this information in a manner that will provide adequate information to determine the solvency of the company. **This section is unnecessary because the Insurance Commissioner has the ability to request and receive adequate and timely information to assist in this determination and to date has been able to successfully do so. We are requesting that this section be stricken from the measure because it is costly and unnecessary.**

Section 2 – Requirement to Provide Copy of Insurance Policy. PIFC believes that the requirement in SB 518 for an insurer to provide a free copy of an insured's policy, including the policy's declaration page, all endorsements, and riders, is a reasonable request if the timeframe allotted for this request is expanded and is documented in writing. Specifically we believe that in a single fire loss, 30 days would be an appropriate timeframe. In a total loss scenario associated with a Governor or federally declared disaster, 60 days would be the more appropriate timeframe. Because of the complexity of many policies, including individualized endorsements, much of this will have to be done by hand. **In a post-disaster situation, we believe that it is a more effective use of company claim adjusters' time and expertise to be assisting disaster victims in the initial stages of recovery, rather than immediately retrieving individual policies and endorsements.** This does not mean that a consumer will not receive adequate and full coverages during that timeframe because every policy provides a minimum additional living expense (ALE) as well as an amount for rebuilding the home. It does however provide the necessary time for the insurer to directly assist the victims of the loss as well as provide them a copy of their coverages. With the extension of time and a provision for the request to be in writing, we would be supportive of this section.

As a final note, we are requesting that, except for a circumstance following a total loss, an insurer be allowed to charge a reasonable fee to pay for the costs associated with the actual cost of producing the policy documents.

Section 3 – Extension of Additional Living Expense (ALE) Timeframe. Section 3 clarifies that in the case of a Governor declared disaster the insurer should not be allowed to place a time limit of less than 24 months from the date of loss for an insured to receive coverage for additional living expenses. **We believe that this section needs to be clarified that this is within the stated policy limits of the coverages provided by the insurer. In other words, this is not an unlimited amount of money within 24 months but a limited amount of money up to 24 months.**

Second, we do believe that there needs to be some obligation on the part of the policyholder to take some steps to actually rebuild their home or at least commit to rebuild their home. To provide a 24-month ALE when the consumer knows they will not rebuild their home is an excessive benefit. Furthermore, we have concerns that two neighbors similarly situated with similar coverages may elect to build homes different from what was lost and may unfairly be provided different reimbursements. One consumer may elect to rebuild an existing home; the other to rebuild a new and much larger home. The first homeowner may find their plans approved instantly, the second may take months in the process of developing architectural designs and obtaining approval from the Planning Commission. We believe that this additional time should be borne by the insured if in fact

he or she is not rebuilding a similar home. With the modifications and clarification of both consumer obligation and limitation of coverages, we can remove our opposition.

Section 4 – Extension of Statute of Limitations from One to Two Years for the Filing of a Homeowner's Claim. Section 4 amends the statute of limitations for a claimant to file a claim against their insurer from one to two years. We are opposed to this section because under case law consumers are already afforded this protection. California case law states that the claim adjustment period does not count toward the one-year statute of limitations. In effect, the clock stops ticking during this time and doesn't start ticking again until the insurer has made its final payment or decision. In other words, in the case of the San Diego fires where some consumers are still rebuilding their homes and have yet to receive their final claims payment from their insurer, the consumer will have a year from the final claims payment to sue, assuming the consumer reported the claim promptly. **SB 518 effectively caps that amount to two years regardless of where the consumer is in the claims process. This has the effect of actually shortening the time for consumers who are in the claims process.**

Although the statute of limitations for auto claims has increased from one year to two years, there is public policy rationale for not increasing the time for homeowners' claims. Specifically, there is little doubt or question in the mind of a consumer if they have suffered a fire loss. In an automobile accident, one may not fully realize the magnitude of their bodily injury until months after the auto accident. It is very difficult to make the same claim regarding a fire loss where the damage is readily apparent. It is very important for the consumer to immediately make the claim in an effort to commence the claims process and also to ensure a full understanding by the insurer of the potential loss associated with the fire. For this reason we believe there is no public policy merit for extending the statute of limitation from one to two years.

For the reasons stated above, **PIFC opposes SB 518 (Kehoe) unless amended** to address our concerns. If you have any questions, please contact Dan Dunmoyer at (916) 442-6646.

cc: Senator Kehoe, Author
Brian Perkins, Senate Banking, Finance, and Insurance Committee
Tim Conaghan, Senate Republican Caucus
Richard Costigan, Legislative Secretary for the Governor
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Senate Floor Analyses