June 5, 2024

Senate President pro Tempore Mike McGuire
1021 O St., Ste. 8518
Sacramento, CA 95814

Assembly Speaker Robert Rivas
1021 O St., Ste 8330
Sacramento, CA 95814

Re: Governor's insurance trailer bill would cost consumers billions

Dear Pro Tem McGuire and Speaker Rivas,

We write with deep concerns about the budget trailer language presented by the Administration concerning insurance rate review. It would gut the consumer intervention process and tie the insurance commissioner's hands, sacrificing transparent public scrutiny of insurance rate increases for speedy approvals. Consumer interventions by Consumer Watchdog over the last 22 years have produced $6 billion in savings, and Consumer Federation of California Education Foundation's interventions over the past 10 years have resulted in over $400 million in savings for California policyholders. These savings are in jeopardy under this proposal.

The proposal would:

Remove consumer interventions in rate hikes under 7%. Consumer interventions today follow an informal process that allows for intervenors' questions to be asked and answered before a rate is accepted. Intervenors provide their calculation of a justified rate that is presented along with the commissioner's proposed rate. The trailer language allows the insurance company to accept the estimated rate proposed by the Commissioner after 120 days, regardless of whether the company has provided all the data asked for by the Commissioner and intervenor, and irrespective of the intervenor's calculations and positions. The company can simply run out the clock on producing requested data and accept a rate arrived at without appropriate evaluation. By allowing the company to accept the Commissioner's estimated rate, without consideration of the intervenor's position, the intervenor's ability to achieve a lower rate is eliminated.

Force the commissioner to make a determination based on insufficient information. The reason most rate reviews take time is the insurance company refuses to present necessary data in a timely way. This proposal fails to make an allowance for stopping the time clock when a company stonewalls and fails to produce necessary information. In every rate review after a complete rate application is filed the Department's actuaries and those of any consumer intervenor then ask questions and seek additional data from the company that is necessary to determine the appropriate rate.

Give the Commissioner the ability to approve a rate hike before the intervenor's petition to participate is approved. Current law grants consumer intervenors 45 days to file a petition to participate. The Department then has 15 days to approve that petition. This timeline would place approval of a consumer intervenor's petition on the 60th day. Even if consumer intervenors file petitions in half the allowed time, most of the 60-day window will be over before they have a chance to begin, foreclosing any meaningful participation.

Encourage serial rate hikes under 7%. Since only rate hikes over 7% are subject to a mandatory hearing requirement, companies will opt for multiple 7% rate hikes in a given year to avoid the scrutiny of intervenors. This is more likely under the trailer language than it is now, because the arbitrary 120-day deadline for approval assures companies they will be able to seek and receive three rate hikes in a year.

Exclude consumer intervenors' positions from the list of unresolved issues the Commissioner will be required to produce after 60 days. A primary purpose of public participants is to raise new issues, provide different analyses of data, or take unique positions on questions raised by a rate application for the Commissioner to consider. Issues raised by a consumer intervenor are excluded from the list the trailer language will require the Commissioner to produce, taking the intervenor's questions out of consideration.

Allow Commissioner and the insurance company to bypass a hearing in cases of rate hikes greater than 7%. Where a hearing is called, it allows the Commissioner to ignore a court order and approve an application without a hearing on a rate application exceeding the 7% threshold. This violates the public's right to a hearing on those applications as required under section 1861.05(c).

Allow for negotiation on "different terms" in cases of hearings on rate hikes greater than 7%. Even if a consumer representative believes the insurance company has failed to justify a rate change, and is therefore entitled to a hearing, the proposal allows insurance company to bypass the consumer representative and negotiate with the Commissioner for "different terms," ignoring the consumer's right to a hearing under Section 1861.05(c)(3).

At minimum, such significant changes to California's strongest-in-the-nation insurance rules deserve thorough scrutiny by the legislature, not the lack of sunshine and public debate inherent in making this proposal a budget trailer bill.

Giving insurers the right to raise rates more quickly will only leave Californians paying higher rates, not get more insurance companies back in the market. The largest insurance companies in California have received double digit rate hikes recently -- 20% for State Farm that took effect in March on top of an additional 6.9% last year, three rate hikes adding up to 37% for Farmers in the last year -- and the companies still refuse to write new business. Their problem is the fear of greater liability under the FAIR Plan, which increases proportional to a company's market share. The most practical way to reverse Californians' forced entry into the FAIR Plan, and the growing liability that stems from that, is requiring insurance companies to cover people who meet state home hardening and brush clearance guidelines with standard home insurance policies.

Californians are spending billions as taxpayers and as individuals to make our neighborhoods more resistant and resilient to wildfires. That spending directly benefits the insurance industry by reducing the risk they will have to pay large claims in the wake of wildfires. The state similarly is investing billions in forest management and community resilience, but none of those efforts to reduce risk are being reflected in home insurance access or affordability. Insurance companies can no longer be allowed to ignore these actions. Taxpayers and consumers must see a return for wildfire mitigation investments that make our whole state safer.

Sincerely,

Carmen Balber
Executive Director
Consumer Watchdog

Robert Herrell
Executive Director
Consumer Federation of California

Douglas Heller
Director of Insurance
Consumer Federation of America

Rosemary Shahan
President
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