United Policyholders™

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July 31, 2020

Mr. Brian Flemmer
Senate Insurance Committee Consultant
VIA EMAIL/POSITION LETTER PORTAL

Re: AB 2167 – Oppose

**Our Mission**

*United Policyholders is a non-profit 501(c)(3) organization whose mission is to be a trustworthy and useful information resource and an effective voice for consumers of all types of insurance in all 50 states.*

**Programs**

*Advocacy and Action*
*Roadmap to Preparedness*
*Roadmap to Recovery™*

Dear Senate Insurance Committee Consultant Brian Flemmer and Members:

We write to respectfully re-register our strong opposition to AB 2167 and its companion bill SB292. We can and must find a way to restore a competitive home insurance marketplace without giving insurers more freedom to use untested catastrophe rate models, pass along even more costs to their customers, and charge higher rates with less oversight.

California homeowners are already being hit with annual premiums that are triple and more over what they had been paying, according to the results of a United Policyholders survey that has been underway since early 2019. 87% of survey respondents said the cost of their home insurance has increased. For some, annual premiums have jumped to as high as $10k.[1]

Before allowing insurers more freedom to raise and use CAT models in setting rates, and pass along their reinsurance costs to customers, we need an official set of residential wildfire risk reduction standards that insurers must recognize and that will guide individuals and communities on home hardening and the creation and maintenance of defensible space.

AB2167 and its companion SB 292 don't get that done, and are virtually guaranteed to substantially drive up the cost of home insurance across the state with no adequate assurances of increased availability in WUI areas. Allowing insurers to circumvent the current prior approval process, get full credit for their reinsurance purchases and overcome the Insurance Commissioner's prohibition on using catastrophe models in setting rates gives them what they ***want***, not what our state ***needs***. Given the economic impact higher rates have on vulnerable property owners and real estate transactions, especially in the WUI, rural and suburban areas, these concessions are not warranted, especially without the critical mitigation standards component.

Progress is already being made, and more balanced alternatives exist, to accomplish our shared objectives of reducing wildfire risk and stimulating competition in the home insurance marketplace without undermining our state regulator and harming consumers.

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[1] See https://www.uphelp.org/sites/default/files/attachments/q9_california_home_insurance_availability_survey_8.3.20_1.pdf

*First*, Chairman Daly's A.B. 1816, signed into law in late 2019, provided write-out credits to incentivize insurers to sell policies to homeowners currently insured through the California Fair Plan. Let's give that bill a chance to work before we add another layer of complexity via an Insurance Market Action Plan (IMAP) AB 2167. If an IMAP is still needed once the write-out credits are fully implemented, the California Department of Insurance has the authority and the expertise to establish one.

*Second*, even *if* insurers claims were true that their rates had been unfairly suppressed in the prior approval system, they are making up for that now. The California Department of Insurance is currently processing and granting scores of rate increase applications, and many Californians are already paying twice, three times, or more than what they had been paying for home insurance in prior years.

Insurers contend that the average premium for homeowners insurance is lower in California than most other states in the country, even though it is a catastrophe-prone state, and that their rates have been unfairly suppressed.[2] Yet their *profits* tell a different story. California home insurance profits (8.3%) have averaged significantly higher than the national average (5.5%) over the past twenty-three-year period.[3] Further, once insurers collect subrogation payments from utilities found at fault for some of the wildfires, their long-term average profits in California are predicted to return to double the national average.[4]

*Third*, the Catastrophe Models that insurers want the freedom to use are very likely to aggravate the affordability problem as they did in Florida. "Due to the uncertainty associated with hurricane loss models and the wide variations between them, Florida established a Commission on Hurricane Loss Projection Methodology."[5] Under Florida law, any model utilized for the purpose of ratemaking must be a model deemed acceptable for use by the Commission. Allowing insurers to set rates by shifting from using verifiable historical data to using "black box" complex catastrophe predictive modeling remains controversial.[6] Using predictive modeling, as opposed to using long-range historic data, is especially risky if implemented immediately following record disasters, such as the 2017 and 2018 Wildfires. These more recent events have the potential to skew models and predictions by looking only three years back, and ignore past decades of insurer profitability.

*Fourth*, Reinsurance rates are not regulated and prices often rise significantly after disasters. The harsh impact on consumers of passing these costs along was evidenced in Florida following the eight hurricanes of 2004 and 2005. Premiums skyrocketed in large part due to reinsurance costs, which were often not actuarially sound.[7] Moreover, the practice of insurers forming their own reinsurance companies and

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[2] A common source of citation for this information is the National Association of Insurance Commissioners "Dwelling Fire, Homeowners Tenant and Condominium/Cooperative Unit Owner's Insurance Report: Data for 2017" (2019).

[3] Position Letter from J. Robert Hunter, Consumer Federation of America, to President pro Tempore Atkins, Speaker Rendon, and Senators re: Actuarial opinion concerning AB 2167 (Daly) and its impact on California homeowners insurance premiums (July 28, 2020).

[4] *Id.*

[5] https://www.floir.com/siteDocuments/CatastropheStressTestReport102015.pdf

[6] *See* "Insurance Industry is Rethinking Cat Modeling After Last Year's Losses," Insurance Journal, (July 2018) and the National Association of Insurance Commissioners Center for Insurance Policy and Research (last updated 1/2020) https://content.naic.org/cipr_topics/topic_catastrophe_models.htm.

[7] Position Letter from J. Robert Hunter, Consumer Federation of America, ("State Farm, the largest private insurer in Florida, increased its rates a formidable 66% during 2006 alone", "the cost of reinsurance now constitutes 40-50% of the premium dollar" (citing Florida Office of Insurance Regulation (March 1, 2007). House Bill 1A, Presumed Rating Factors); "On average, the Herald-Tribune calculated, reinsurers charge five times more than the actuarial risk of loss"(citing the article "Sending Billions Overseas")).

constructively selling insurance to themselves, unregulated, creates a clear opportunity for insurers to evade long standing and carefully implemented consumer protections.[8]

Instead of rushing to give insurers' more rate, lawmakers should codify the standards and risk reduction techniques that have already proved effective in preventing homes from being destroyed. Standards and techniques that firefighting agencies and Fire Safe Councils are using in WUI communities throughout our state. Standards that are explained in the Institute for Home and Business Safety's "Wildfire Codes and Standards" November 2019 and that are being promoted by the California Fair Plan and responsible insurance companies.[9] Under current law, insurers are free to recognize these risk reduction programs and reward consumers. At least two insurers do, but not enough to spur action and not consistently.[10]

United Policyholders ("UP") is a non-profit 501(c)(3) organization that informs, helps and speaks for individual and commercial insurance consumers in California and across the nation. UP is funded by donations and grants and supported by volunteer labor. UP does not sell insurance or accept funding from insurance companies. At www.uphelp.org, UP offers guidance, information and resources to the public on a wide spectrum of insurance sales and claim matters. For the reasons listed above, UP respectfully opposes AB 2167 and its companion SB 292.

Thank you for your time and consideration on this important matter.

Sincerely,

Amy Bach,
Executive Director

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[8] *Id*. ("One way insurers move money out of the regulated business is by forming their own reinsurance companies" (citing "How insurers make millions on the side")).
[9] *See* "Wildfire Home Assessment and Checklist" (last visited July 29, 2020) https://www.cfpnet.com/wp-content/uploads/2019/09/wildfire-checklist_ibhs_09252019.pdf
[10] *See* "Insurance discounts for USAA members in 11 states" (last visited July 29, 2020) https://www.nfpa.org/Public-Education/Fire-causes-and-risks/Wildfire/Firewise-USA/Become-a-Firewise-USA-site/Program-benefits/Insurance-discounts-for-USAA-members-in-seven-states#:~:text=To%20reward%20USAA%20members%20and,approved%20to%20offer%20the%20discount.