Consumer Watchdog

August 6, 2019

Honorable Bill Dodd, Senator

State Capitol Room 4032

Sacramento, CA 95814

RE: OPPOSE SB 290 (Dodd)

Dear Senator Dodd:

Consumer Watchdog is **OPPOSED** to SB 290 (Dodd), a bill that would allow the state to purchase insurance and financial instruments without subjecting them to the scrutiny that the insurance and financial industries have under current law. SB 290 is not needed and it places California taxpayers at risk of being taken in by the same complex financial instruments that led to the 2008 financial crisis.

SB 290, which bypassed the Senate Insurance Committee, where these issues most certainly would have been raised, permits the creation of complicated financial vehicles financed by taxpayers without scrutiny by the Department of General Services (DGS) and apparently full review by the Department of Insurance. We urge you to withdraw SB 290, or at least bring it to the Senate Insurance Committee to discuss how to amend the bill to confirm there will be adequate oversight of insurance purchases by the state, and of any financial products created by the insurance industry.

Currently, the Governor can use his emergency powers under The California Emergency Services Act (Act) to buy insurance or complicated financial products for reinsurance. However, existing law also requires that the procurement of insurance by any state agency shall be subject to the procedures and approval of the Department of General Services (DGS) the business manager for the State of California. Whenever procurement of insurance is required, that insurance product will be subject to the fair bidding and procurement practices stipulated in state law, such as the lowest, responsible bidder, or pursuant to appropriate requests for proposals (RFP's), and requests for qualification (RFQ's). These well-established procedures are utilized to ensure that taxpayers dollars are being expended fairly and judiciously. SB 290 circumvents this reasonable check and balance to protect taxpayer money. In addition, existing law requires that insurance products that fall under insurance reform Proposition 103 be subject to a full prior review by the Department of Insurance to ensure their appropriate pricing and benefits. As written, SB 290 could be interpreted to allow the Governor to purchase insurance products that haven't been subject to the prior approval process.

SB 290 unreasonably circumvents existing governmental oversight and consumer protections with the promise that a consultation with the insurance commissioner is enough to guarantee their legitimacy. The commissioner, unfortunately, has demonstrated in a recent speech a lack of knowledge on insurance topics, fealty to the insurance companies and a willingness to "get creative" that could prove disastrous for taxpayers.

Insurance Commissioner Lara recently addressed a meeting of general counsels at the American Property Casualty Insurance Association/Association of California Insurance Companies General Counsel Conference on July 25, 2019 at the Loew's in Hollywood. He said: "So, I want to thank you for being one of the first organizations to support SB 290 and look forward to continue to partner with you to insure the bill moves forward to the Governor's desk and ultimately to obtain his signature. I'm ready to get creative, just like all of you have been for so many years, and now you have somebody that's receptive to that in the Department."

Creativity in the hands of the insurance companies means higher premiums for the policyholders – in this case the state's taxpayers. This bill is sponsored by Commissioner Lara, in consultation and coordination with the insurance lobby. Notably it allows for a continuous appropriation to pay for insurance that amounts to a blank check for the government. The complicated financial instruments that will be created – including reinsurance, insurance linked securities (ILS), Catastrophe bonds (cat bonds) or other related alternative risk-transfer products -- are likely to stump even the most well-meaning governors and executive agency staff.

Taxpayer dollars are best spent on fire prevention and mitigation, not on complicated financial instruments by for-profit insurance companies that will try to take advantage of the state in highly "creative" ways.

It is important to note that SB 290 language originally included "earthquakes", but this language was deleted during the legislative process. The California Earthquake Authority no doubt wanted no part of this scheme and neither should the rest of the state.

In the original Senate Floor Analysis, the fiscal cost was noted to be: "According to the Senate Appropriations Committee, one-time costs to the California Department of Insurance of approximately $25,000 for the research and analysis of determining what, if any, insurance, reinsurance, insurance linked securities, or related alternative risk-transfer product policies are worthy of further consideration by the state. Unknown, significant cost pressure, in the millions of dollars to the state if the Governor decides to purchase insurance or reinsurance products."

By the time SB 290 was analyzed in the Assembly, the fiscal cost was simply noted as: "Unknown."

This bill was not referred to the Senate Insurance Committee, a committee specifically endowed with staff and members with the knowledge and experience to properly analyze and adequately review the impacts of this bill.

At very least SB 290 deserves a hearing in the Senate Insurance Committee, where the true costs and benefits can be adequately scrutinized. The benefits of SB 290 are grossly exaggerated and the costs are dramatically understated. It's a bill of the insurers, by the insurers, and for the insurers. The taxpayers of the state should not pay for their creativity.

Sincerely,

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Consumer Watchdog
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Cc: Honorable Gavin Newsom, Governor of California
Honorable Lorena Gonzales, Chair, Assembly Appropriations Committee
Honorable Susan Rubio, Senator & Chair Senate Insurance Committee
Ezra Chaaban, Chief of Staff, Senator Dodd
Les Spahn, Legislative Director, Senator Dodd
Jay Dickenson, Chief Consultant, Assembly Appropriations Committee
Hugh Slayden, Principal Consultant, Senate Insurance Committee