



August 27, 2019

Insurance Commissioner Ricardo Lara  
Department of Insurance  
300 Capitol Mall, Ste. 1700  
Sacramento, CA 95814

Dear Commissioner Lara:

Homeowners insurance companies are imposing extreme rate hikes and abruptly non-renewing homeowners who live in areas at higher risk for wildfires, even when they do everything in their power to mitigate fire hazards and harden their homes. Homeowners should not lose the ability to insure their homes when they do all the right things to protect themselves and their property from fires.

As Insurance Commissioner, you have broad power that you are not using to prevent insurance companies from unfairly penalizing homeowners. Insurance companies may not like these actions, but the public deserves your full support for the regulatory and legislative agenda outlined below. There is a way, now it is up to you to demonstrate the will.

Frankly, your priorities during your first eight months in office have been misguided. They have been aimed at the best solution for the insurance industry, not for California homeowners. For example, instead of utilizing your full regulatory authority to alleviate the skyrocketing rate increases and policy cancellations faced by growing numbers of Californians, you have made passage of a boondoggle for the insurance industry your top priority.

Senate Bill 290 would allow the insurance companies and Wall Street to sell insurance, reinsurance and insurance-backed securities to the state with none of the usual oversight that protects taxpayers from being cheated. The state Department of Finance exposed the bill as an unnecessary and costly end-run around the regulatory and procurement checks and balances that exist to protect taxpayers and the state's coffers.

Contrary to your statement at the bill introduction press conference, SB 290 would do nothing to improve "accessibility and affordability" of insurance in wildfire areas. At a recent closed-door meeting with the insurance industry you were more honest about the bill, telling insurance industry lawyers and executives: "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."

If you want to protect the public, not the insurance companies, you should drop your advocacy of SB 290 immediately and use the extensive toolbox at your disposal to act to protect consumers.

It is time you ensure that homeowners who do everything right don't face excessive rate hikes or lose their insurance altogether.

You have the independent power to issue immediate emergency regulations to:

- Protect homeowners from arbitrary and unjustified rate increases by prohibiting homeowners insurance companies from basing rates on secret "black box" wildfire risk models. These models use algorithm-based projections of wildfire losses generated by third party vendors to support massive rate increases. You are required by Proposition 103 to determine whether these projections are justified and that the companies are not unfairly discriminating against customers. (Insurance Code § 1861.05.) The risk models used in rating or underwriting, such as those insurance companies use to set so-called "fireline" scores, must be transparent and disclosed to the public. (Insurance Code § 1861.07.) No rate increase can take effect until the insurance companies prove it is justified, and you have approved it. (Insurance Code §§ 1861.01, 1861.05.) Emergency regulations should bar the use of any models that lead to excessive or discriminatory rates.
- Require homeowners insurance companies to provide mitigation discounts to homeowners who make investments in hardening their home. You have just released data that showed a significant increase in homeowners insurance non-renewals in areas of the state with high wildfire risk. Among these homeowners are people who have taken strenuous measures, at a substantial cost, to reduce the risk of wildfire damage to their property. Yet insurance companies are treating these conscientious homeowners as if they pose the same risk as property owners who have done nothing to limit the risk. This is unfair discrimination, which is unlawful. (Insurance Code § 1861.05.) Emergency regulations should contain a list of risk mitigation procedures and require each insurance company to file an updated rate application that provides the proper discount for each item on the list.
- Bar the use of claims software that low-balls the cost of repair and reconstruction. Virtually every insurance company doing business in California uses "Xactimate" claims software to determine how much to pay a policyholder who has filed a claim for a wildfire loss. However, Xactimate software fails to account for the actual rebuilding and construction costs in local markets throughout California. Instead, it uses a nationwide average cost of rebuilding, which low-balls California repair and reconstruction costs. As a result, insurance companies are not honoring their coverage and Californians are left without the funds they are entitled to and cannot rebuild their homes. This is a violation of Insurance Code § 790.03(h)(5) and California Code of Regulations, title 10, §§

2695.7(g) and 2695.9(d). Emergency regulations should bar the use of Xactimate or any other product that does not provide accurate estimates of the cost of rebuilding.

Each of these actions is fully within your power as Commissioner to undertake immediately. You said the recent data showing a rise in non-renewals “should be a wake-up call for state and local policymakers that without action to reduce the risk from extreme wildfires and preserve the insurance market we could see communities unraveling.” Yet the Department of Insurance need not wait for lawmakers; you have everything you need to begin protecting homeowners today.

In addition to regulatory action, instead of advocating for SB 290 your legislative agenda should aim to protect homeowners’ access to quality coverage, including:

- Requiring insurers to assess rebuilding costs annually so replacement cost coverage provides what it promises.
- Guaranteed issue of insurance to homeowners who harden their homes, just as the state guarantees issue of auto insurance to safe drivers.
- Prohibiting insurance companies from non-renewing policyholders whose circumstances have not changed; enacting a strict consumer-protection standard for non-renewals.
- Requiring insurance companies to obtain approval from the insurance commissioner before they can reduce the volume of policies in a given area.

The insurance industry is hoping to use the fires as an excuse to overturn the consumer protections at the heart of insurance regulation in California. Consumers need these protections more today than ever before.

As the elected Insurance Commissioner, your responsibility is to protect the consumers of California against the excessive rates and abusive practices of the insurance industry. The people of California are waiting for you to do so.

Sincerely,

A handwritten signature in black ink that reads "Carmen Balber". The signature is written in a cursive, flowing style with a long horizontal line extending from the end.

Carmen Balber