

PERSONAL INSURANCE FEDERATION PLEASED WITH FINAL COURT OF APPEAL RULING AGAINST CALIFORNIA DEPARTMENT OF INSURANCE

IMMEDIATE

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SACRAMENTO, CA. (February 28, 2005) – The California Third Appellate District Court of Appeal today upheld a Superior Court ruling that knocked down emergency regulations adopted by Insurance Commissioner John Garamendi which sought to restrict the consideration of prior loss histories in underwriting and rating homeowners' insurance. The Personal Insurance Federation of California (PIFC), one of three insurance trade associations that initiated the successful legal challenge to the emergency regulations, said the ruling is a victory for homeowner's policyholders throughout the state.

Gene Livingston of Livingston & Mattesich representing the three trade associations said, "The Court of Appeal agreed with Superior Court Judge Raymond M. Cadei and the argument made on behalf of the insurance industry. The court said, 'the Insurance Code provides no express authority for regulating the underwriting of homeowners' insurance, nor can such expansive authority be implied. Unlike automobile insurance, homeowners' insurance is subject to only a few restrictions, all clearly set forth in the Insurance Code. Reading the Insurance Code to give the Commissioner broad authority to regulate underwriting beyond these specific provisions is inconsistent with the legislative scheme as a whole. Accordingly, the regulation is invalid.'"

"We are pleased with the Court of Appeal ruling because it points out that the Insurance Commissioner does not have the power to create new laws by fiat," noted Dan Dunmoyer, PIFC president. "Regulations must first be presented to the Legislature for approval. This is a victory for our customers, because if the regulations were allowed to stand, 75% of homeowners' policyholders who never file a claim would have been required to pay more for their homeowners' insurance to subsidize homeowners who file multiple claims in short periods of time. We feel customers should pay fair rates that reflect their actual risk, not arbitrary subsidized rates as the Commissioner's emergency regulations would have allowed," Mr. Dunmoyer concluded.