Insurers' Rate Compromise Urged Again

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SACRAMENTO — Backers of an agreement to limit large increases in insurance rates — the result of an unusual compromise hammered out during weeks of closed-door negotiations between consumer groups and the insurance industry — called Monday for emergency legislation to enact their accord.

Although the "very fragile" and "fluid" compromise was designed to head off an expensive initiative fight on the 1988 ballot, some consumer advocates blasted it for being fraught with loopholes and "an abuse of the legislative process."

But Attorney General John Van de Kamp described the agreement as "a major victory for consumers, an historic agreement to modernize and reform California's insurance laws.

"I hope the Legislature and the governor will conclude, as I have, that the opportunity is too great and too fragile to pass up," he said.

At a hastily called afternoon press conference in the Capitol, the attorney general was joined by Assemblyman Lloyd Connelly, D-Sacramento, Walter Zelman, executive director of Common Cause, Steven Miller, director of the Insurance Consumer Action Network, and Stanley Zax, chairman of Zenith Insurance Co.

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and president of the Association of California Insurance Companies.

Notably absent were representatives of Consumers Union, which issued a strong denunciation of the process that led to the agreement and questioned whether the proposed law would curtail skyrocketing insurance rates.

National consumer activist Ralph Nader also issued a terse statement critical of the closed-door process. Other consumer advocates made equally negative statements.

Nader said he is "unalterably opposed to any private agreement between contesting parties on major legislation that is whisked through the Legislature without having been subjected to a public airing."

Harvey Rosenfield, director of the Santa Monica-based Access to Justice Foundation, a coalition of consumer groups, opposed the agreement and said work on an initiative was proceeding.

The Legislature does not resume its regular session until January, which would be too late to avert an initiative fight unless Gov. George Deukmejian expands the current special session or the Legislature votes to go back into regular session.

"Just two months ago, after a bitter, months-long battle, essentially the same reform package was killed in the Legislature," Van de Kamp said. "It seemed that there was no hope of reforming the system short of an all-out initiative campaign. But pressure and goodwill on both sides have produced a remarkable breakthrough."

By the time the Legislature reconvenes in January, the attorney general said, "both parties [consumers and the insurance industry] will have had either to launch expensive initiative drives or miss the window for the November ballot — and much of the pressure to enact this [proposed] legislation will be gone.

The negotiations resembled lengthy closed-door sessions that led to major tort reform legislation introduced and passed on the final day of the 1987 legislative session. Those negotiations — which involved lobbyists for trial lawyers, doctors, big business and the insurance industry — excluded consumer groups, who said it compromised the rights of victims in product liability suits.

Nader did not address the substance of the agreement, which would establish a premium-setting system known as 'flex-rating" to give the state Insurance Department control over large changes in insurance rates. It also would begin to address geographic differences in auto insurance rates.

In a Nov. 6 letter to legislators, Consumers Union regional director Harry Snyder urged lawmakers to oppose the legislation as described in a Nov. 5 "memorandum of understanding" among the parties to the agreement.

"The proposed flex-rating system would be enacted by abusing the legislative process and would create a regulatory structure with loopholes," Snyder said. "The structural inadequacies are particularly apparent and problematic for the regulation of auto insurance. In essence, the proposed system would provide an illusory promise of regulating and controlling auto insurance rates."

Snyder said the proposed system "with some improvements" is "reasonable for the regulation of commercial insurance and other personal lines of insurance."

Snyder objected primarily to the process leading to the legislation, which could be passed within a 24-hour period after its introduction. "The rules and protections of the legislative process will not be followed," Snyder said, adding that it should be "properly reviewed" when the Legislature resumes its regular session in January.

According to a five-part summary of the agreement the legislation:

- Require that insurance companies file their rates with the state Department of Insurance.
- Establish rate "bands" that set a range within which insurance rates may move without prior state approval. For personal lines (private auto and homeowners, for example), the rate could move up or down by 15 percent in any 12-month period. Commercial lines would be limited to a 25-percent increase or decrease.
- Require that any increase or decrease beyond those bands be subject to prior approval of the state Insurance Commissioner, who may approve the rates only if they are not "excessive, inadequate or unfairly discriminatory."
- Establish a hearing process for challenges to a rate-filing outside the bands. Under that process, any person who wishes to challenge may petition the commissioner for a hearing, which must be granted unless the challenge is "frivolous or the filing insignificant."
- Address "questions raised about the fairness of automobile rates," especially those in certain high-cost areas of the state. Under these provisions, insurers must make an annual filing, showing "how much they collected in premiums and how much they paid in claims in each territory and each ZIP code."

Legislative supporters said the agreement offered a "window of opportunity" to introduce meaningful insurance reform.

"It's a giant step forward," said Tim Howe, an aide to Assemblyman Lloyd Connelly, D-Sacramento. "Unfortunately from the point of view of some people, it doesn't go far enough. But that's not what you get when you compromise."