He claims to have saved California homeowners billions. The insurance industry hates him

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Insurance industry groups have called it a "bomb-throwing bogus advocacy" group, a "publicity-seeking, dark money front," and an organization out to protect its own "financial $elf-interest$."

These are the kinds of attacks that Harvey Rosenfield and Consumer Watchdog, the advocacy group he founded nearly 40 years ago, have come to expect.

But in the last year, as home insurers have stopped writing new policies and retreated from parts of the state prone to wildfire, a new voice has joined the ranks of critics who say Rosenfield and Co. are making things worse: California's elected insurance commissioner, Ricardo Lara, whose office has called Consumer Watchdog an entrenched interest group "defending its own piggy bank."

If attacking a public advocacy group seems like an odd stance for an elected official, it's made even odder by the fact that Lara wouldn't have his job if it weren't for Consumer Watchdog.

To understand the beef, you need to understand Proposition 103, a California law governing the insurance industry.

The campaign for that ballot measure in 1988 was one of the first missions of Consumer Watchdog, which formed in the wake of Ralph Nader's success in spurring new consumer regulation.

That proposition, which Rosenfield helped write, enacted some of the most stringent insurance industry regulation in the nation. First, it created the office of an elected insurance commissioner to head the state Department of Insurance. Any time an insurance company seeks to raise prices, Proposition 103 requires that the firm apply to the commissioner for prior approval.

The goal, according to the text of the act, is to provide transparency into the insurance market and prevent insurers from charging policyholders “excessive, inadequate or unfairly discriminatory” rates.

Nearly 35 years after Proposition 103 went into effect, Californians pay less for auto and home insurance than most Americans, with the state ranking among the bottom half of states for prices in both categories. But insurers say that long processing times for rate increases, among other regulations, have made it difficult to do business in the state as inflation and wildfire risks are on the rise.

One specific criticism of Consumer Watchdog revolves around a unique proviso of Proposition 103. The law allows public groups such as Consumer Watchdog to intervene in an insurance company’s application for a rate increase and argue — alongside the Department of Insurance — for what the ultimate price should be.

When groups such as Consumer Watchdog intervene, Proposition 103 stipulates that they can get paid for their efforts. After paying the intervening groups, insurance companies wind up passing those fees along to consumers. Insurance companies argue that this provides Consumer Watchdog and others a perverse incentive to turn every rate filing into a battle in order to get paid their fees.

“No other state has this kind of public participation and scrutiny built into the regulatory process, which is why Prop 103 is their No. 1 target,” Rosenfield said. “It drives them nuts.”

“It comes down to the money, right?” said Carmen Balber, Consumer Watchdog’s executive director. “Thanks to the intervenor process, consumers pay less for their home and auto insurance than they would otherwise, and the industry has sought to claw back those profits for decades now.”

There has been friction between the insurance industry and consumer groups for decades, but things have recently started to boil over.

The American Property Casualty Insurance Assn., the nation’s largest insurance lobbying group, in late 2023 bankrolled a website attacking Consumer Watchdog . Representatives of the Insurance Information

Institute and the Personal Insurance Federation of California regularly opine to reporters that Rosenfield, Balber and Consumer Watchdog President Jamie Court, are wrenches in the underwriting machinery.

“The industry is going after Consumer Watchdog harder than normal,” said Patrick Sullivan, senior editor of insurance industry publication Risk Information. And the feud between the group and the Department of Insurance keeps escalating. “I have never seen the relationship degrade to the point it’s at now,” Sullivan said.

The industry groups have been pushing for changes in Sacramento and at the Department of Insurance — and at the close of last year’s legislative session, saw some results in the forms of promises to loosen regulations.

Lara, the state’s insurance commissioner, has had a rocky relationship with Consumer Watchdog from the start. After he pledged to not accept campaign funds from insurers in his first run for the office in 2018, a San Diego Union-Tribune investigation revealed that Lara had accepted hundreds of thousands of dollars in campaign contributions from people and companies with ties to the insurance industry. Consumer Watchdog filed a public records request for communications between Lara’s department and the insurance companies linked to the donations, and then sued the commissioner for allegedly failing to respond to the request in full. The group lost its initial lawsuit, but is continuing to fight it in the state Courts of Appeal.

Since then, the group has accused Lara’s office of ramming through rate increases without adequate review or opportunity for public input, and called his plans to change regulations with the goal of bringing more insurers back to the state market a “sham.”

Lara, in turn, noted in a news conference announcing his proposed reforms that “bombastic statements from entrenched interest groups” help no one, and that “one entity can unreasonably prolong rate filings” while “materially benefiting from a process that is meant for broader public participation.”

Michael Soller, the Department of Insurance’s spokesperson, is less coy about the “entity” in question. After Consumer Watchdog accused Lara of striking a secret deal with insurance companies in the fall, Soller put out a statement saying that the group’s “cynical claims hide the truth that [it] has earned millions of dollars signing off on rate increases — while denying the reality that insurance has become impossible for some Californians to find at any price." He added that the group "is turning a blind eye to consumers' needs while defending its own insurance piggy bank."

Although other consumer groups such as United Policyholders and the Consumer Federation of California have taken a more measured approach, Rosenfield has been blunt. "A commissioner more disposed to protect the industry has come along," Rosenfield said. "Ultimately, there's accountability for that within our system of democracy."

"He's kind of out a little bit on his own on this in terms of opposing what Lara's doing," said Sullivan of Risk Information.

Increasingly, Consumer Watchdog is one of the only consumer advocates even participating in the Proposition 103 process. In the early days of the regime, half a dozen or so major consumer groups were willing to enter the fray. But over time, the pool of dedicated groups with the resources to fight long regulatory battles and only get paid months (and sometimes years) after their work begins, has dwindled to a handful. Now state records show that 75% of the time, if there's an intervening entity in a rate filing, it's Consumer Watchdog.

This is where the accusation of self-interest comes to bear. Since Rosenfield helped write Proposition 103, he also wrote in the fee mechanism that pays his salary at Consumer Watchdog. According to critics, that amounts to self-dealing at the consumers' expense.

State records show that over the last two decades, the group has been paid $11.6 million in fees by the state for its interventions in rate filings, or an average of $575,000 each year. Proposition 103 isn't Consumer Watchdog's only policy focus, nor is it the group's only source of revenue. Consumer Watchdog brought in $3.75 million in revenue in 2022 from donations, grants and other sources, according to public filings.

For that $11.6 million Proposition 103 payout, the group has been party to saving consumers $5.51 billion in the last two decades, according to an analysis produced by Consumer Watchdog. In the last five years, Consumer Watchdog says its actions have contributed to $2.1 billion in savings for Californians. The group arrived at these figures by comparing the dollar value of rate increases that insurance companies sought in the last 22 years against the final amount they got when Consumer Watchdog challenged their request.

In the last two years, when Consumer Watchdog intervened in a company's request to raise its rates, the final result for ratepayers ended up 38% lower than what the companies requested for home insurance, and 29% lower for auto insurance, on average. When Consumer Watchdog didn't enter the fray, the final amount approved by the state insurance department was only 2-3% lower than what companies requested on average, according to the report.

Soller of the insurance department calls these numbers "deeply flawed."

"Based on our review, their claims are highly inflated," Soller wrote in a statement. "They compared the amount originally requested by the insurance company to the amount approved, with no accounting for what the department's role was in that three-party negotiation."

In other words, it is impossible to attribute all of those savings to the group's intervention because state insurance regulators probably would have argued down the companies' requests on its own.

But the scale of California's insurance market means even small concessions can have a big effect on ratepayers. If Consumer Watchdog's interventions contributed 0.3% of those $5.2 billion that insurance rates have been pushed downward, then the group has saved Californians millions more than it's been paid in fees.

Rep. John Garamendi (D-Walnut Grove), who served as the state's first and fourth elected insurance commissioner, finds the attempts to discredit Consumer Watchdog disturbing, if not surprising.

"Yes, they're a big pain, but that's their job," Garamendi said. "These organizations are absolutely essential in the process of a rational insurance market, with premiums that are fairly priced, policies that are clearly understood and written, claims that are paid."

"It has nothing to do with the problems in the state," Sullivan said. "They're fighting amongst themselves over very little — it isn't the intervenor process causing the long delay times" that are at the root of the industry's problems with the regulatory system.

The fundamental problem, according to industry groups and observers, is that rate filings often take a year or more to work their way through the system, which can lead to a punishing lag between costs and revenues for insurers.

Many insurers are still limiting the number of new policies they write in California. If changes do come, it would take many months, and probably years, before they could ripple through to policies and change insurers' business decisions about operating in the state, Sullivan said.

Commissioner Lara is hiring more staff and changing filing rules with the goal of speeding up the process. His office also plans to roll out new rules that could allow insurance companies to lock in higher prices further in advance, by allowing them to use algorithmic modeling to set higher prices for wildfire risk zones and pass through some of the costs of reinsurance — insurance policies that insurance companies themselves buy to cover their own losses.

Consumer Watchdog, in a surprise to no one, has some strong opinions about Lara's plans.

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