

Secret in-flight recording sparks rage over possible wildfire insurance ‘bailout’

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A conversation with a lobbyist secretly recorded on an airplane is shedding light on discussions of possible wildfire insurance legislation that consumer advocates are worried will be pushed through the Legislature in the final two weeks of the session.

“We are trying to jam a bill in the last three weeks,” longtime insurance industry lobbyist Michael Gunning says on the recording, which was taken on a Southwest flight from Los Angeles to Sacramento. He went on to explain that major insurance companies, including Farmers, State Farm and Allstate, have been reducing their footprint in the state.

State Farm and Allstate say they’re not writing any new homeowner insurance policies in California moving forward, arguing it’s too expensive to do business here. That’s put policymakers, including Insurance Commissioner Ricardo Lara, in a bind as they face a threat of their constituents losing wildfire insurance.

The recording, first reported by Politico and also published in a news release by Consumer Watchdog, was captured by the president of the group, Jamie Court.

The conversation goes to the heart of a question roiling Sacramento in the last days that bills can be written before the end of the legislative session: What can state lawmakers do to stave off concerns of an insurance crisis in California — a state that boasts the strongest insurance protections for consumers in the country?

Consumers are worried about the increasing difficulty of being able to obtain insurance as major insurers pull back. Insurers, meanwhile, say the method by which state regulators allow them to calculate their

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risk is antiquated and needs to be revised for them to survive in California.

But consumer advocates worry the legislation will be made public at the last minute with little opportunity for oversight. And that's what made the emergence of the secretly recorded conversation so compelling.

Court said he was sitting across the aisle from Gunning on the flight, but that Gunning didn't appear to recognize him. They were in an exit row, where a flight attendant whom Gunning seemed to know was standing. Court recorded their conversation when he realized they were discussing the backroom maneuvering on legislation that could drive up insurance premiums.

"I was just taken aback by the arrogance of it," Court told the Chronicle.

Consumer Watchdog has long been a thorn in the side of the insurance industry, and its founder was the chief backer of Proposition 103, the 1988 voter-approved ballot measure that created California's strict rules governing insurance policies in the state. That measure also created the office of the insurance commissioner.

Gunning, a registered lobbyist with the firm Lighthouse Public Affairs, did not return a call seeking comment for this story. A colleague from his firm followed up with an emailed statement, characterizing the recording as an example of Gunning's work to address California's housing crisis.

"The housing crisis is an issue that affects everyone. The situation has intensified with the challenge of securing insurance for homes, affecting both homeowners and home builders," said Patrick Harbison, a spokesperson for Lighthouse Public Affairs. "Californians deserve solutions that address these issues. Our team works tirelessly — even answering questions from flight attendants about what we do — advocating for our clients and communities."

Carmen Balber of Consumer Watchdog said rumors swirling around the Capitol suggest an insurance company bailout, a rollback of oversight rules and an adoption of climate change risk models to help set rates are all being discussed.

To pass something this year, lawmakers would need to bypass the normally monthslong legislative

process and speed a deal through in two weeks. The final day for lawmakers to pass bills this year is Sept. 14.

That wouldn't give the public enough opportunity to weigh in and follow the process on a consequential issue, Balber said.

"Let's not do a bailout at the end of session with no public scrutiny," she said. "It never ends well for consumers when lawmakers push through a bailout at the end of session."

One major change the insurance industry is seeking in California is the ability to set rates based on predictive modeling that can account for the future risk of worsening disasters like wildfires fueled by climate change. Unlike most other states, California doesn't use predictive modeling.

Instead, the industry must set its fees by looking backward two decades on what it has paid out for wildfire claims. But intensifying climate change has altered that risk, and now the industry wants California to adopt how other states set rates — a forward-looking fee structure based on computer modeling.

Consumer advocates are leery of trusting a private company's formula. If California were to move to a forward-looking model, advocates would prefer to see one crafted in daylight — perhaps a model created in the state's public universities or government.

"We don't trust the predictive analytics of the algorithm because we just assume it's going to overstate the risk," Amy Bach, executive director of United Policyholders, a nonprofit advocate for insurance consumers, told the Chronicle in July.

Consumer Watchdog doesn't oppose the use of risk models as long as they are transparent and the calculations that go into them are made public, Balber said.

In an interview with the Chronicle earlier this summer, Lara declined to give details on what a model would look like or who should craft it, but said he believes it should have some measure of transparency.

"We want to make sure that the consumer, the department or local governments know how these tools are being used to assess not only who gets insurance but who gets discounts," Lara said.

But in an appearance last week on state Sen. Steve Glazer’s podcast, Lara said, “We need to amend Prop. 103 to allow us to look at the use of data, the use of catastrophic models that currently we don’t have. We have this statute that needs to be modernized.”

Glazer, a former chair of the Senate Insurance Committee, told the Chronicle on Thursday that “the traditional pricing model of only looking in the rear-view mirror to set rates is failing.”

“We need reforms that better balance availability and affordability. The marketplace for insurance is teetering, and the consequence of inaction can be dire,” Glazer said.

Glazer, an Orinda Democrat, said he is concerned about the recent doubling of subscribers to the state-offered Fair Access to Insurance Requirements Plan, a temporary insurer of last resort that’s becoming a permanent option for many Californians.

He called it “a dead canary in the insurance mine.”

On Glazer’s podcast, Lara appeared to be leaning toward a deal with insurers that would offer consumers more opportunity to buy insurance — even if it costs more.

“The ideal here is to give availability of insurance to every Californian, so then the costs come down when insurance companies are back fighting for your business,” Lara said.

Lara told Glazer that consumers around the state have told him that they are “willing to pay for coverage that is comprehensive as opposed to the FAIR Plan, which is much more expensive, limited in scope and coverage and leaves consumers very vulnerable.”

“Yes, affordability is critical. But right now, availability is more important. We want insurance companies to increase their market share given the ongoing risk that we live in every day,” Lara said.

Companies have also pushed for the ability to pass some of their costs on to consumers, something Lara has said he’s weighing.