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# Costly coverage

**Critics complain state insurance commissioner makes it too easy for industry to raise rates**

By [Dean Calbreath](#) ([Contact](#))  
Union-Tribune Staff Writer

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(Shaffer Grubb / Union-Tribune illustration) -



Insurance Commissioner Steve Polzner has offered an olive branch to insurers, pledging that they "will get a fair shake with my office." (Nancee E. Lewis / Union-Tribune)

## CONSUMER CRITICISM

Critics of Insurance Commissioner Steve Poizner say he did not cut insurance costs aggressively in 2008 and is now allowing prices to rise. Poizner's office says that there are many legitimate reasons for prices to rise.

Price reductions ordered by the Department of Insurance:

**2006 | 2007 | 2008**

**Homeowners** \$142 million | \$475 million | \$198 million

**Auto** \$664 million | \$638 million | \$190 million

**Total** \* \$899 million | \$1.2 billion | \$494 million

\* Includes other forms of insurance.

**SOURCE:** *California Department of Insurance.*

Within the past six months, the state Insurance Department has granted rate increases ranging from 4.25 percent to 6.9 percent on auto policies issued by such companies as Progressive, Farmers, Hartford, Wausau and Lincoln.

More than half a dozen other major insurers, including 21st Century, State Farm and Safeco, are applying for similar increases, worth more than \$220 million. Insurers also are pressing for increases in homeowners policies.

The department, headed by Insurance Commissioner Steve Poizner, maintains that there are valid reasons for the increases, especially considering the \$1.6 billion or so that insurers shelled out for the 2007 wildfires in Southern California.

In addition, the state regulators note that not all insurers are raising their rates. Just a month ago, the department approved an 8.8 percent reduction in auto rates for Fire Insurance Exchange, an arm of Farmers Insurance.

But Poizner's critics – ranging from insurance industry watchdog Harvey Rosenfield to Lt. Gov. John Garamendi – accuse him of rewriting regulations to make it easier for insurers to raise rates.

“Poizner's job is to protect the consumers, not the insurance industry,” said Garamendi, Poizner's predecessor at the Insurance Department. “His actions threaten to gut the consumer agency.”

There is a bit of political posturing in this dispute, since Democrat Garamendi and Republican Poizner are both planning to run for governor in 2010.

Rosenfield, who heads Consumer Watchdog in Santa Monica, said the dispute goes beyond politics.

“The things that Poizner has been doing and is now proposing constitute a deregulation of the insurance industry,” said Rosenfield, the author of 1978's Proposition 103, which created strict regulations for California insurers.

Poizner has declined requests for an interview, but his spokesman, Darrel Ng, rejects such criticism.

“Right now, there is an upward trend in some rates, which has been caused in part by the losses related to the wildfires and other conditions of the market,” Ng said. “To suggest that these changes were made because of some changes to regulations is a very simplistic view of the system and probably not very intellectually honest.”

Under state law, the Insurance Department reviews rates to determine whether they are “excessive” or “inadequate” – in other words, ensuring that rates are not too high in proportion to the costs incurred by insurers or too low to allow the insurers to run their businesses.

When Garamendi served as insurance commissioner – in 1991-94, as California's first elected commissioner, and again in 2003-06 – he boisterously pressed for insurers to lower their rates and alter their policies and practices.

After the 2003 Southern California wildfires, for instance, Garamendi held public hearings near Scripps Ranch and other burn areas, where he pilloried insurance executives to shame them into paying more on their clients' claims.

“It appears to me as if the (insurers) are screwing their customers big time,” Garamendi said at the time.

Poizner, who took office in January 2007, has taken a much less confrontational approach. During his campaign, Poizner held out an olive branch to insurers, pledging that they “will get a fair shake with my office.”

“Poizner doesn't mind working with the insurance industry, as long as it's in the best interests of the consumer,” said Andy Barile, an insurance industry consultant in Rancho Santa Fe. “He doesn't try to alienate them, but he also doesn't always give them their way.”

“Garamendi's track record was being more unfriendly and more dictatorial toward the insurance companies. I'd rather have somebody talk me into something than pushing me into the wall,” Barile said.

On the other hand, George Kehrer – a consultant who works with fire victims pursuing insurance claims – said Garamendi's confrontational approach helped consumers.

“Garamendi put insurers on the block and threatened that if they didn't give the right responses, he'd come down on them like a ton of bricks,” said Kehrer, who saw Garamendi and Poizner in action after the Southern California wildfires in 2003 and 2007.

“Garamendi got results. Recoveries have been somewhat more difficult under Poizner. If I were grading the two, I'd give Garamendi a B and Poizner a C or a C-plus,” Kehrer said.

In rate hearings, Poizner initially continued Garamendi's policy of obtaining lower rates. Over the past two years, Poizner approved \$1.7 billion in reductions in insurance rates, including \$673 million for homeowners policies and \$828 million for auto coverage.

But Rosenfield said most of the rate decreases that Poizner pushed through during his first years in office were based on regulations that Garamendi had crafted. Poizner has since amended those regulations in ways that benefit the insurance companies, Rosenfield said.

Last spring, for instance, Poizner enacted so-called emergency regulations that reversed some of Garamendi's policies. Among other things, he allowed insurers to boost their profit margins by 2 percent above previous levels.

Another important change involves the rate-setting process. When evaluating requests for rate changes, Garamendi used a standard three-year base period to determine whether an insurer's business trends justified a higher – or lower – rate.

Poizner changed the rule to let insurers suggest their own base periods of up to six years. His critics say such a change allows insurers to game the system, since they can extend the period to show the effect of a long-resolved event such as the 2003 wildfires, which might have little relevance to their current financial position.

In a letter to Garamendi last spring, Poizner said his changes were necessary to protect the “health, vibrancy and competitiveness” of the insurance market.

“It is essential that we foster an environment in which insurers want to compete and expand,” Poizner wrote. “If such an environment does not exist, consumers will be hurt in the form of reduced choices and higher prices.”

But Rosenfield said Poizner's changes were nearly identical to revisions previously proposed by the insurance industry. “Insurance companies have happily embraced the changes to request major rate increases,” he said.

Rosenfield said insurance rates have generally been on an upward trend since Poizner changed the laws. Ng, the commissioner's spokesman, said there was no connection between the two.

“We use very complex formulas when setting the rates,” Ng said. “There are a number of instances where loss data shows that increases are warranted. Whenever a company asks for a rate increase, we'll go through their books to determine whether an increase is appropriate or not.”

Ng added that after several years of decreasing rates, there are valid reasons why rates are rising now, especially after the costs incurred after the 2007 wildfires.

“Even before some of the recent loss data, it was clear that some of the rate decreases would probably

level off for a while and we'd probably see some upward adjustments," Ng said.

Rosenfield said the rate revisions make it easier for increases to be approved.

"Poizner has given the companies more opportunity to request higher rates," he said. "We are challenging some rate applications, but we can't challenge those that follow his new regulations. They will get approved."

Rosenfield said Poizner's latest proposal – to streamline regulatory reviews when insurers ask for rate decreases – could keep rates higher than the insurers' costs justify.

Under current practice, whenever a company wants to change its rates – whether an increase or a decrease – the Insurance Department reviews the change to see whether it is justified.

Poizner proposes that the department only review rate increases, allowing companies to file for decreases without review. But Garamendi and Rosenfield warn that such a change could allow insurers to overcharge consumers.

"My experience is that companies sometimes come to the department asking for a 5 percent reduction when – after investigation – we find that what is really required is a reduction of 15 to 20 percent," Garamendi said.

"This regulation blinds the eyes of the Insurance Department. The inevitable result is that rates will not be as low as they should be."

Ng said current policy discourages companies from requesting rate decreases.

"What we've heard from insurers is that if someone comes to us asking for a 3 percent reduction and we tell them we think it should be 12 percent, that discourages them from coming in," Ng said. "We think we should make it easier for insurance companies to lower their rates. We believe that this will encourage companies to come in whenever they like."

But Todd Foreman, a former Insurance Department regulator who is now a staff attorney at Consumer Watchdog, said the new policy runs counter to the spirit of Proposition 103.

"What Poizner is saying is, 'I'm not going to do my job as a regulator. I'm going to sit back and wait for the companies to come in to tell me where they want to set their rates,'" Foreman said.

"That's a fundamental misunderstanding of the law and of his job as a regulator."

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## Comments

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wtfu February 1, 2009 at 10:55 p.m. [Suggest removal](#) 0 of 0 people found this comment useful.  
 "Poizner doesn't mind working with the insurance industry, as long as it's in the best interests of the consumer," said Andy Barile, an insurance industry consultant in Rancho Santa Fe."

Yes, I guess that means he will service the industry. He just won't swallow.

- twidget777 February 2, 2009 at 6:22 a.m. [Suggest removal](#) 0 of 0 people found this comment useful.  
 We need to give poizner more kick-back money than what the insurance agencies give him so he doesn't screw us, here's a dollar!!!

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