Commissioner Lara:

Homeowners insurance companies are imposing extreme rate hikes or abruptly non-renewing homeowners who live in high-risk wildfire areas, even when they do everything in their power to mitigate brush hazards and harden their homes. Homeowners should not lose the ability to insure their homes when they do all the right things to protect themselves and their property from fires.

As Insurance Commissioner, you have broad power to prevent insurance companies from unfairly penalizing homeowners that you are not using. Insurance companies may not like these actions, but the public deserves your full support for the regulatory and legislative agenda outlined below. There is a way, now it is up to you to demonstrate the will.

Frankly, your priorities during your first eight months in office have been misguided. They have been aimed at the best solution for the insurance industry, not for California homeowners. For example, instead of utilizing your full regulatory authority to alleviate the skyrocketing rate increases and policy cancellations faced by growing numbers of Californians, you have made passage of a boondoggle for the insurance industry your top priority.

SB 290 would allow the insurance companies and Wall Street to sell insurance, reinsurance and insurance-backed securities to the state with none of the usual oversight that protects taxpayers from being cheated. The state Department of Finance exposed the bill as an unnecessary and costly end-run around the regulatory and procurement checks and balances that exist to protect taxpayers and the state's coffers.

Contrary to your statement at the bill introduction press conference, SB 290 would do nothing to improve "accessibility and affordability" of insurance in wildfire areas. At a recent closed-door meeting with the insurance industry you were more honest about SB 290, telling insurance industry lawyers and executives: "I'm ready to get creative, just like all of you have been for so many years, and now you have somebody that's receptive to that in the Department."

If you want to protect the public, not the insurance companies, you should drop your advocacy of SB 290 immediately and use the extensive toolbox at your disposal to act to protect consumers.

It is time you ensure that homeowners who do everything right don't face excessive rate hikes or lose their insurance altogether.

You have the independent power to immediately take these emergency actions: to:

- Protect homeowners from arbitrary and unjustified rate increases by prohibiting homeowners insurance companies from basing rates on secret "black box" wildfire risk models. These models use algorithm-based projections of wildfire losses generated by third party vendors to support massive rate increases. You are required by Proposition 103 to determine whether these projections are justified and that the companies are not unfairly discriminating against customers. (Insurance Code § 1861.05.) The risk models used in rating or underwriting, such as those insurance companies use to set so-called "fireline" scores, must be transparent and disclosed to the public. (Insurance Code § 1861.07.) No rate increase can take effect until the insurance companies prove it is justified, and you have approved it. (Insurance Code §§ 1861.01, 1861.05.) Emergency regulations should bar the use of any models that lead to excessive or discriminatory rates.

- Require homeowners insurance companies to provide mitigation discounts to homeowners who make investments in hardening their home. You have just released data that showed a significant increase in homeowners insurance non-renewals in areas of the state with high wildfire risk. Among these homeowners are people who have taken strenuous measures, at a substantial cost, to reduce the risk of wildfire damage to their property. Yet the insurance companies are treating these conscientious homeowners as if they pose the same risk as property owners who have done nothing to limit the risk. This is unfair discrimination, which is unlawful. (Insurance Code § 1861.05.) Emergency regulations should contain a list of risk mitigation procedures and require each insurance company to file an updated rate application that provides the proper discount for each item on the list.

- Bar the use of claims software that low-balls the cost of repair and reconstruction. Virtually every insurance company doing business in California uses "Xactimate" software to determine how much to pay a policyholder who has filed a claim for a wildfire loss. However, Xactimate software fails to account for the actual rebuilding and construction costs in local markets throughout California. Instead, Xactimate uses a single, nationwide average cost of rebuilding. As a result, insurance companies are not honoring their coverage and Californians are left without the funds they are entitled to and cannot rebuild their homes. This is a violation of Insurance Code § 790.03(h)(5) and California Code of Regulations, title 10, §§ 2695.7(g) and 2695.9(d). Emergency regulations should bar the use of Xactimate or any other product that does not provide accurate estimates of the cost of rebuilding.

- When a policyholder loses their home to a wildfire there is, obviously, no further risk of damage to the policyholder's home. California law requires insurance companies to reduce premiums for such policyholders to reflect the reduced risk during the rebuilding or replacement process. (Insurance Code § 675.1.) However, insurance companies are refusing to reduce premiums. You should issue an emergency bulletin ordering insurance companies to provide the required rate reduction and issue refunds to those who were entitled to it.

Each of these actions is fully within your power as Commissioner to undertake immediately.

And, instead of advocating for SB 290, your legislative agenda should aim to protect homeowners' access to coverage, including:

- Requiring insurers to assess rebuilding costs annually so replacement cost coverage provides what it promises.

- Guaranteed issue of insurance to homeowners who harden their homes, just as the state guarantees issue of auto insurance to safe drivers.

- Prohibiting insurance companies from cancelling or non-renewing a policy that has been in effect for a certain time period unless a strict rescission standard is met.

- Requiring insurance companies to obtain approval from the insurance commissioner before they can reduce the volume of policies in a given area.

You said the recent data showing a rise in nonrenewals "should be a wake-up call for state and local policymakers that without action to reduce the risk from extreme wildfires and preserve the insurance market we could see communities unraveling."

As the head of the Department of Insurance, you should have already been wide awake.

Californians are relying on you to prevent insurance companies from abandoning homeowners who do all the right things to lower their risk, and to ensure they have the ability to rebuild if disaster strikes.

The insurance industry is hoping to use the fires as an excuse to overturn the consumer protections at the heart of insurance regulation in California. Consumers need these protections more today than ever before.

As the elected Insurance Commissioner, your responsibility is to protect the consumers of California against the excessive rates and abusive practices of the insurance industry. The People of California are waiting for you to do so.