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## MEMORANDUM

Date: June 10, 2008

To: The Honorable Mike Machado, Chair  
The Honorable George Runner, Vice Chair  
Senate Banking, Finance and Insurance Committee

From: Rex D. Frazier, President  
Michael A. Gunning, Vice President  
Kimberley Dellinger, General Counsel  
Ermelinda Ruiz, Legislative Advocate

Re: AB 1051 (Calderon, C.) re: Insurance Rates  
Senate Banking, Finance and Insurance Committee  
As Amended: May 8, 2008  
**PIFC Position: Support**

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The Personal Insurance Federation of California (PIFC), representing insurers who write nearly 50% of all personal lines of insurance sold in the state, including State Farm, Farmers, Safeco, aigdirect.com, Progressive and NAMIC, **supports AB 1051 authored by Assembly Member Charles Calderon.**

AB 1051 would provide clarity and consistency to the rate approval process established by Proposition 103 and the authority of the Insurance Commissioner ("Commissioner") in approving rate filings, by clearly stating that *"no retrospective adjustment of an approved filing may be awarded unless the person challenging the filing establishes that the insurer has not complied with the approval."*

Current law provides specific steps for rate approval, including rigorous review by the Commissioner prior to using a rate in the market place. Current law also encourages paid "consumer group" participation during the ratemaking process. AB 1051 does nothing to affect these protections in the rate review process.

AB 1051 merely provides that once an insurer receives rate approval from the Commissioner, after consumer groups have had ample opportunity to provide input, an insurer would be able to rely upon the Commissioner's approval, and therefore would not be subject to retroactive liability in the event the approval is reversed by a court. This bill does not affect the process allowing a consumer to challenge an existing approved rate on a prospective basis, it simply preserves the reliance by all parties on the acts and authority of the Commissioner, so long as the insurer complies with the terms of the approval. If an insurer would deviate from the terms of the approval, then retroactive liability could occur.

Given the complicated regulatory scheme of Proposition 103, the difficulty associated with obtaining rate approvals, the ample opportunity for consumer participation and the complete authority of the Commissioner, insurers must be allowed to rely on the Commissioner's approval to avoid the extreme financial penalties that would result from a retroactive adjustment.

In addition, AB 1051 will also add clarity by expressly stating that the definition of "unfairly discriminatory," as applied in Section 1861.05, has the same meaning as in Section 11732.5, providing a consistent definition of the term as it relates to the determination of insurance rates. Proposition 103 provides that rates shall not be "unfairly" discriminatory, but does not provide a definition.

For the aforementioned reasons, **PIFC supports AB 1051**. If you have any additional questions regarding our position, please do not hesitate to contact Kimberley Dellinger at (916) 442-6646.

cc: Assembly Member C. Calderon (Author)  
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