

September 15, 2008

E. Dotson Wilson  
Chief Clerk of the Assembly  
State Capitol, Room 3196  
Sacramento, CA 95814

Dear Mr. Wilson:

I respectfully submit this letter in an effort to clarify the intent and effect of Section 7 of my bill, Assembly Bill 2654.

AB 2654 is the fifth in a series of nondiscrimination bills that I have authored, all of which have been signed into law. The first was AB 2900 in 2004, which amended over 35 labor and employment-related nondiscrimination statutes to be consistent with the Fair Employment and Housing Act (FEHA). The second was AB 1400 in 2005, which amended the Unruh Civil Rights Act and related provisions to clarify and confirm that Californians are protected from discrimination by business establishments regardless of their sexual orientation, gender identity and marital status. The third was AB 2800 in 2006, which amended 17 housing provisions to be consistent with FEHA. The fourth was last year's AB 14 which amended 51 anti-discrimination provisions that govern business and government activities in the state.

Under current law, there are 11 more business and government provisions which prohibit discrimination against individuals who are members of specified categories, also known as "protected classes." Such variances have created deficiencies in protection for Californians, in addition to creating confusion for those charged with implementing and complying with these laws.

Section 7 (Insurance Code section 11628) of AB 2654 prohibits discrimination in various aspects of property and casualty insurance, including in the use and establishment of rating factors. A concern has been raised about how AB 2654 might affect rating factors used by these insurers in light of the fact that Proposition 103 established certain rating factors in law and also authorized the State Insurance Commissioner to establish additional optional rating factors through regulation.

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It is not the intent of AB 2654 to amend Prop. 103 with respect to these rating factors. For many years, it has been abundantly clear in both statute and case law that property and casualty insurers, as with all insurers, and as with all business in the state of California, are subject to the Unruh Civil Rights Act (Civil Code Section 51). AB 2654 changes nothing other than to simply clarify this fact in additional sections of law, including Insurance Code section 11628 (section 7 of this bill). If the Legislature intended to statutorily change the rating factors, such a change would amend Proposition 103 statutes and therefore would require a two-thirds vote of the Legislature. Similarly, regulatory action by the Insurance Commissioner would be necessary to change the optional rating factors.

As with my prior four civil rights bills, AB 2654 simply makes many sections of law clear and consistent, thereby bolstering the strong anti-discrimination laws, such as Unruh, already on the books in California.

Respectfully submitted,

JOHN LAIRD  
Assemblymember, 27<sup>th</sup> District