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MEMORANDUM

Date: August 3, 2006

To: The Honorable Judy Chu, Chair
Members, Assembly Appropriations Committee

From: Rex Frazier, President
Michael A. Gunning, Vice President
Michael A. Paiva, Senior Legislative Advocate

Re: SB 1278 (Alquist): Alfred E. Alquist Seismic Safety Commission
As Amended May 23, 2006
Assembly Appropriations Committee Hearing August 9, 2006

The Personal Insurance Federation of California, representing insurers who write 48.7% of all personal lines insurance sold in the state, including State Farm, Farmers, Safeco, Progressive, 21st Century, and NAMIC, wish to communicate our view regarding the funding source for the California Seismic Safety Commission (CSSC).

The CSSC was created as a result of the enactment of the 1974 Seismic Safety Commission Act. From 1974 until 2003, the CSSC was funded through the state's General Fund. The severe budget crisis of 2003 forced the CSSC to seek an alternative funding source. Since 2003, the CSSC has been funded by an assessment on in-force commercial and residential property insurance policies. This change in funding was accomplished with the passage of SB 1049 (Chapter 741, Statutes of 2003) which provided for a sunset of July 1, 2007. PIFC and other insurance entities opposed SB 1049 on the grounds that it was an unfair and potentially illegal tax.

We understand that SB 1278 is the legislative vehicle for addressing the long-term future of the CSSC. The bill currently places the Commission within the State and Consumer Services Agency and increases the membership of the Commission from 17 to 20 members.

If the funding source for the CSSC is addressed in future iterations of SB 1278, we are hopeful that the author will take into account that the current funding is potentially an illegal tax. We note that the CSSC has no regulatory authority or responsibility in regulating the insurance industry and that the mission of the CSSC is to provide a benefit to the state as a whole and not just to commercial and residential property insurance policyholders. Thus, the assessment does not fall within the guidelines of a valid fee and is really a tax. As such the "tax" would need to be approved by a 2/3 vote of the Legislature.

Finally, we encourage the author to consider alternative funding sources. We note that the CSSC has been designated as a recipient of a "gift" in the amount of nearly \$6

PERSONAL INSURANCE FEDERATION OF CALIFORNIA

980 Ninth Street Suite 2030 Sacramento California 95814
T (916) 442 6646 F (916) 446 9548 E pifc@pifc.org www.pifc.org

million. This money is part of the liquidation of the California Research and Assistance Fund (CRAF). Paragraph 14 of the court order related to the CRAF settlement, reads, in part, as follows:

After all known debts and liabilities have been paid or adequately provided for, the Receiver shall prepare a gift agreement for distribution of any remaining CRAF assets to the California Seismic Safety Commission (CSSC) to be used solely for research related to earthquake risk reduction. Upon execution of that agreement by the Receiver and the CSSC, the Receiver shall distribute CRAF's remaining assets to the CSSC, less an amount kept in reserve to pay the Receiver and service providers for work done to complete the dissolution.

PIFC previously asked representatives of the Attorney General to determine how much money will be available to the CSSC, when it will be available, and if the mission of the CSSC needs to be amplified in order to ensure that the mission of the CSSC is consistent with the court order's requirement that the settlement money be used "solely for research." PIFC believes that all of these questions should be explored before the Legislature further binds the Insurance Fund, especially given the fact that the current sunset does not expire until July 1, 2009.

If you have any questions regarding our view, please contact Michael Paiva at (916) 442-6646.

cc: Honorable Elaine Alquist, Author
Chuck Nicol, Consultant, Assembly Appropriations Committee
Ted Blanchard, Assembly Republican Caucus
Cynthia Bryant, Office of the Governor
Kathleen Webb, Office of the Insurance Advisor