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MEMORANDUM

Date: April 25, 2006

To: The Honorable Joseph Dunn, Chair
Members, Senate Judiciary Committee

From: Rex D. Frazier, Vice President & General Counsel
Michael A. Gunning, Vice President
Michael A. Paiva, Senior Legislative Advocate

Re: SB 1311 (Soto): Liability Waivers
Senate Judiciary Committee: May 2, 2006
PIFC Position: Oppose

The Personal Insurance Federation of California, representing insurers who write nearly 50% of the personal lines insurance sold in the state, including Farmers, 21st Century, Safeco, Progressive, State Farm and NAMIC, **opposes SB 1311** authored by Senator Soto. SB 1311 would undermine the certainty of valid settlements without any prior showing of improper conduct or lack of understanding.

Current law requires all parties to a settlement or waiver of liability to fully understand the agreement. SB 1311 would allow an unrepresented party, regardless of comprehension, to set aside a settlement or waiver unless the entire oral and written negotiation is conducted in both English and the native language of the unrepresented party.

If current law is inadequate, which we doubt, then the proper response would be to demonstrate a genuine problem and propose a tailored solution. To the contrary, SB 1311 is based upon an unproven assumption that someone whose native language is other than English, but who comprehends English perfectly, should have an automatic right to re-open a settlement if any part of a settlement negotiation is conducted in English-only. SB 1311 wrongly makes no attempt to distinguish between unfair and fair conduct.

A better first step is to analyze whether current standards for settlements are adequate. We urge the author to raise the issue with the appropriate State Bar committee or the Law Revision Commission before proceeding further with this bill.

For the above reasons, **PIFC opposes SB 1311 and urges your no vote.** If you have any additional questions regarding our position, please do not hesitate to contact Rex Frazier at (916) 442-6646.

cc: Honorable Nell Soto, Author
Alexandra Montgomery, Senate Judiciary Committee
Mike Petersen, Senate Republican Caucus
Cynthia Bryant, Deputy Legislative Secretary, Office of the Governor
Kathleen Webb, Office of the Insurance Advisor
Senate Floor Analyses

4.SB1311-SJud

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