



Personal Insurance Federation of California

California's Personal Lines Trade Association

REPRESENTING THE LEADING AUTOMOBILE AND HOMEOWNERS INSURERS
State Farm • Farmers • 21st Century Insurance Group • SAFECO • Progressive

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MEMORANDUM

Date: April 29, 2004

To: The Honorable Ellen Corbett, Chair
Members, Assembly Judiciary Committee

From: Dan C. Dunmoyer, President
G. Diane Colborn, Vice President of Legislative and Regulatory Affairs
Michael A. Gunning, Senior Legislative Advocate

RE: AB 1910 (Harman): Decedent's Estates: Posthumously Conceived Children
Assembly Judiciary Committee Hearing: May 4, 2004
PIFC Position: Support With Concerns

The Personal Insurance Federation of California, representing insurers who write nearly 45% of all personal lines insurance sold in the state, including State Farm, Farmers Insurance, 21st Century, Safeco, and Progressive Insurance Companies, **supports AB 1910** by Assembly Member Harman.

AB 1910 states that, for purposes of determining rights to property to be distributed upon the death of a decedent, a child of the decedent conceived after the death of the decedent would be deemed to have been born in the lifetime of the decedent if the child was conceived within one year of the decedent's death. In addition, the child or his or her representative must prove that the child was conceived using the decedent's genetic material.

Our concerns with the bill lie with the timing of the notice required by the Probate Code. Under normal circumstances, it's quite possible that death benefit proceeds could be paid well before any such notice is received. Under the bill, the individual has additional time after the death to provide the notice to the insurer. In a situation where the policy is beyond the contestable and suicide provisions, and the death certificate and W-9 forms are submitted promptly, the policy could have been paid long before the notice is ever received.

AB 1910 appears to require an insurer to wait for a longer than customary period of time before making distribution in order to be protected against the claims of the posthumous child. An insurer should not have to wait the full time allotted in order to receive any type of protection against the claims of the posthumous child. Although AB 1910 does provide for some immunity, it does not hold the insurer harmless if there is a delay. Furthermore, if the insurer distributes the estate and is notified later there is an additional rightful heir, we are requesting clarification in statute that any legal action must be limited to the estate and excluded from the insurer. In addition, the insurer should not have to pay interest or be held liable for violations of existing claims regulations as a result of a delayed payment whether the insurer has to wait for a notice or in a situation where the notice is given. Insurers should not be punished financially for something over which they have no control.

The author has stated his willingness to address these concerns as the bill moves forward. Currently, the laws in California are unclear on the inheritance rights of children conceived by posthumous parents and should be clarified. For this reason, **PIFC supports AB 1910 and urges an "AYE" vote.** If you have any questions, please contact Dan Dunmoyer at (916) 442-6646.

cc: Assembly Member Dutra, Author
Drew Liebert, Assembly Judiciary Committee
Mark Redmond, Assembly Republican Caucus
Cynthia Bryant, Office of the Governor
Scott Reid, Office of the Insurance Advisor