



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

STAFF

Dan Dunmoyer
President

Diane Colborn
Vice President of Legislative
& Regulatory Affairs

Michael Gunning
Senior Legislative Advocate

Jerry Davies
Director of Communications

MEMORANDUM

Date: April 28, 2004

To: The Honorable Martha Escutia, Chair
Members, Senate Judiciary Committee

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

Re: SB 1368 (Ortiz): Substitute Service of Process
Senate Judiciary Committee: May 4, 2004
PIFC Position: Oppose

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, **opposes SB 1368 by Senator Ortiz**. SB 1368 would require insurers to be served copies of summons and complaint against their insureds, and to request authorization from their insureds to accept service of process documents on their behalf.

PIFC Strongly Opposes the Provisions of SB 1368 Providing for Service of Lawsuits on Insurers Rather than on the Named Defendant. The insured is the Defendant, not their insurance company. The company's contractual obligation is to reimburse its insured for losses and to provide certain other services including, in some circumstances, to pay for their defense. This bill would change well-settled constitutional law that the Defendant is entitled to notice and service of process. The bill violates the Due Process Rights of Defendants. Requiring that insurance companies release the address of the insured could also be prejudicial to the insured and may violate existing insurance privacy laws.

SB 1368 Would Expose a Consumer to a Judgment that was not Agreed to or Ratified by the Named Defendant. By deeming service on the insured complete where the plaintiff stipulates to the policy limits in the absence of consent will leave the insured, as the defendant, exposed to a judgment that he or she did not agree to. This could negatively affect the individual's personal finances or result in other adverse consequences. Particularly anti-consumer is the provision of the bill that would permit service of process on the insurer without the policyholder's consent if the plaintiff elects to limit the claim to policy limits, but then would nullify that limitation once discovery commences.

In addition, the bill would create new administrative burdens and additional costs to insurers given the current trend towards centralization of claims processing service centers. It would be an administrative nightmare for insurers to now begin accepting millions of lawsuit documents. This amendment would neither speed up nor expedite the notice to the insured. This provision is not consumer friendly and merely creates a convenience for lawyers.

For all these reasons, **PIFC is opposed to SB 1368 and urges a no vote on the bill**. Thank you for your consideration of our views. If you have any questions regarding this position, please do not hesitate to contact Diane Colborn at (916) 442-6646.

cc: Senator Ortiz, Author
Michael Yang, Senate Judiciary Committee
Gloria Ochoa, Senate Judiciary Committee
Mike Petersen, Senate Republican Caucus
Cynthia Bryant, Office of the Governor
Scott Reid, Office of the Insurance Advisor