



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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Date: August 24, 2004
To: Members, California State Assembly
From: Dan C. Dunmoyer, President
G. Diane Colborn, Vice President of Legislative and Regulatory Affairs
Michael A. Gunning, Senior Legislative Advocate
Michael A. Paiva, Senior Legislative Advocate
RE: SB 1368 (Ortiz): Substantive Service of Process
Assembly Third Reading File
PIFC Position: Oppose

Amended August 23, 2004

The Personal Insurance Federation of California, representing insurers who write over 50% of all personal lines insurance sold in the state, **opposes SB 1368 by Senator Ortiz.**

SB 1368 would require insurers to accept substitute service of process in lawsuits filed against their policyholders. *The amendments adopted by the author on August 23rd were technical and do not address our fundamental concerns with this bill.*

SB 1368 would impose new requirements on insurers that are costly, unnecessary, and contrary to the interests of their policyholders. The insurance company's contractual obligation is to indemnify the policyholder for losses incurred that are covered under the policy, and in some cases to pay for the costs of their defense if they are sued. The insurance company's obligation is to their insured, and not to a third party who is trying to sue them. SB 1368 imposes new and costly obligations on insurers and could create an adversarial relationship between the insurer and insured.

SB 1368 is unnecessary as other alternative substitute forms of service of process are already available and allowed under the law. These include mailing a summons and complaint to the individual, or service by publication if authorized by the Court.

SB 1368 is not limited to cases where the plaintiff is unable to locate the defendant. Under SB 1368 there would be no requirement that the plaintiff even attempt to provide personal service on the defendant. Instead, they would serve the papers on the insurer if the insurer has acknowledged the claim (which insurers are required under regulation to do in virtually every case). Acknowledgement of a claim does not mean that there has been a determination that the claim is covered under the policy.

SB 1368 would violate the policyholder's right to privacy by requiring insurers to disclose their policyholder's address to a person trying to sue them. The Insurance Code and other privacy laws restrict the disclosure of personally identifying information, including address and phone number. This requirement could potentially allow stalkers to obtain information regarding where the policyholder lives. Finally, the bill unreasonably places the burden on the policyholder to go to court to seek a protective order if they do not want their address released to a hostile person.

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

cc: Senator Ortiz, Author
Leora Gershenson, Assembly Judiciary Committee
Mark Redmond, Assembly Republican Caucus
Cynthia Bryant, Office of the Governor
Scott Reid, Office of the Insurance Advisor