

MEMORANDUM

STAFF

Dan Dunmoyer
President

Diane Colborn
*Vice President of Legislative
& Regulatory Affairs*

Michael Gunning
Senior Legislative Advocate

Dan Chick
Senior Legislative Advocate

Jerry Davies
Director of Communications

Date: September 5, 2003

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
Dan Chick, Senior Legislative Advocate

Re: SB 328 as proposed to be amended to include:

- ◆ Service of Lawsuits on Insurers on behalf of Defendant's
- ◆ Insurer Required to Uphold a Settlement Agreement Not Agreed to in Writing by the Defendant
- ◆ Disclosure of Confidential Policy Information

Assembly Judiciary Committee: September 8, 2003
PIFC Position: Oppose

The Personal Insurance Federation of California, representing insurers who write nearly 35% of all personal lines insurance sold in the state, including State Farm, Farmers Insurance, 21st Century, SAFECO, and Progressive Insurance Companies, **opposes the tort expansion language in SB 328 as proposed by personal injury attorneys.** Although we have yet to see any actual language in print, the legislative proposal is reported to include language similar to that of AB 1297.

This possible measure would require insurers to be served a copy of the summons and complaint of their insureds and to request authorization from their insureds to accept service of process documents on their behalf. The bill also provides that the failure of an insured to sign a settlement agreement that was signed by an authorized representative does not relieve the insurer of responsibility to honor the settlement. The bill also requires insurers to provide, prior to the commencement of litigation involving a motor vehicle liability insurance policy, policy limits information.

PIFC Strongly Opposes the Provisions of Any Measure that Provide 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. Requiring that insurance companies release the address of the insured could also be prejudicial to the insured and may violate privacy laws.

PIFC Opposes the Provisions that would Expose an Insured 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 individuals credit or result in other adverse consequences.

In addition, this provision of 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 to now begin accepting millions of lawsuit documents. What would happen if there was an accident in Redding, but the claims service center was in Costa Mesa? This could lead to new time delays and would increase the time factor for lawsuits. This amendment would neither speed up nor expedite the notice to the insured. It merely creates a convenience for the lawyers. This provision is not consumer friendly.

PIFC also Strongly Opposes the Provisions requiring Disclosure of Policy Limits Prior to Litigation. The actual damages incurred rather than the amount of the policy limits should govern the plaintiff's demand. Requiring the insurance company to provide coverage information before a suit is filed violates the privacy rights of the insured and the company.

The provisions of the bill that would require insurance companies to disclose the policy limits of their customers would lead to the "cherry-picking" of cases by lawyers. They would only take the cases of policyholders who had the highest limits. This bill would encourage activity where lawyers only seek to work on high policy limit cases.

For all these reasons, **PIFC is opposed to SB 328 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 Michael A. Gunning at (916) 442-6646.

cc: Tony Strickland, Assembly Member
Assembly Judiciary Committee
Ann Richardson, Office of the Governor
Richard Figueroa, Office of the Governor