

AMENDED IN ASSEMBLY JULY 2, 2015

AMENDED IN SENATE MAY 5, 2015

AMENDED IN SENATE APRIL 20, 2015

SENATE BILL

No. 585

Introduced by Senator Leyva

February 26, 2015

An act to add Article 7.5 (commencing with Section 13550) to Chapter 2 of Division 3 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 585, as amended, Leyva. Insurance payments: interception.

Existing law creates the Department of Child Support Services and provides for the interception of funds from state tax refunds, lottery winnings, unemployment compensation benefits, and benefits under the Public Employees' Retirement System that otherwise would be paid to a person owing past due child support. Existing law creates the Department of Insurance, headed by the Insurance Commissioner, and prescribes the department's powers and duties.

This bill would, beginning July 1, 2016, create the Insurance Payment Intercept Program within the Department of Insurance. The bill would require the Department of Child Support Services to facilitate a data match system using automated data exchanges through which an insurer or self-insurer would be required to ~~report, no later than 30 days prior to a claim payout,~~ *report, prior to the payment of a claim,* the name, address, and, if known, date of birth and social security number or other taxpayer identification number for each claimant to match a claimant who owes past due support, as specified.

~~This bill would authorize the commissioner, in his or her discretion, require the commissioner, if he or she has good cause to believe that an insurer or self-insurer has not complied with the bill's requirements, to give written notice of the alleged noncompliance specifying a reasonable time, not less than 30 days, during which the insurer or self-insurer is required to correct the noncompliance. The bill would require the commissioner to impose a fine, not to exceed \$1,000, upon for each violation if an insurer or self-insurer who violates the bill's requirement to provide claim data. The bill would additionally authorize the commissioner fails to correct the noncompliance within the specified timeframe, and to issue an order requiring the violator to comply with that requirement. The bill would authorize an insurer or self-insurer who disagrees with the commissioner's determination of noncompliance to request an administrative hearing within 30 days of receipt of the notice of noncompliance.~~

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 7.5 (commencing with Section 13550) is
2 added to Chapter 2 of Division 3 of the Insurance Code, to read:

3

4 Article 7.5. Insurance Payment Intercept Program

5

6 13550. In furtherance of the enforcement of child support
7 obligations in the state, and to enhance efforts to notify the
8 Department of Child Support Services when an obligor is owed
9 an insurance claim payment, this article establishes and authorizes
10 the Insurance Payment Intercept Program. *This article is not*
11 *intended to delay payment of a claim.*

12 13552. (a) The Department of Child Support Services shall
13 facilitate a child support data match system using automated data
14 exchanges to the maximum extent feasible, through which an

1 insurer or self-insurer shall report, ~~no later than 30 days prior to a~~
2 ~~claim payout, prior to payment of a claim,~~ the name, address, and,
3 if known, date of birth and social security number or other taxpayer
4 identification number for each claimant.

5 (b) An insurer or self-insurer may provide the claim data
6 required pursuant to subdivision (a) by any of the following
7 methods:

8 (1) Submitting the required claim data maintained by the insurer
9 or self-insurer directly to ~~the Department of Child Support Services~~
10 ~~in hard copy or a child support data match program~~ in an electronic
11 medium.

12 (2) Authorizing an insurance claim data collection organization,
13 to which the insurer or self-insurer subscribes and submits the
14 required claim data, to conduct a data match of all claimants who
15 owe past due support and to submit the required data for each
16 claimant to ~~the Department of Child Support Services.~~ *a child*
17 *support data match program.*

18 (3) Receiving or accessing a data file from ~~an insurance claim~~
19 ~~data collection organization~~ *a child support data match program*
20 and conducting a data match of all claimants who owe past due
21 support and submitting the required data for each claimant to ~~the~~
22 ~~Department of Child Support Services.~~ *a child support data match*
23 *program.*

24 ~~(e) An insurance claim data collection organization acting on~~
25 ~~behalf of the Department of Child Support Services shall submit~~
26 ~~the required data for each claimant to the Department of Child~~
27 ~~Support Services.~~

28 (c) *With respect to claims involving periodic payments, the*
29 *insurer or self-insurer shall only report prior to issuing the initial*
30 *payment of benefits and each 12 months thereafter.*

31 (d) *An insurer or self-insurer that provides claim data in*
32 *accordance with subdivision (b) is in compliance with subdivision*
33 *(a).*

34 (e) *When a child support data match program identifies a match,*
35 *it shall notify the Department of Child Support Services and the*
36 *Department of Child Support Services shall send a notice, if*
37 *appropriate, to the insurer or self-insurer.*

38 (f) *Upon receipt by the insurer or self-insurer of notice from*
39 *the Department of Child Support Services on a reported insurance*
40 *claim payable to an obligor with a child support delinquency, the*

1 insurer or self-insurer shall comply with the requirements of the
2 notice.

3 (g) (1) If the insurer or self-insurer is in receipt of a notice
4 from the Department of Child Support Services on a reported
5 insurance claim payable to an obligor who has a child support
6 delinquency after a payment on a periodic payment is issued, the
7 insurer or self-insurer shall comply with the notice with respect
8 to subsequent payments.

9 (2) Except as required by paragraph (1), this section does not
10 require an insurer or self-insurer to comply with a notice from the
11 Department of Child Support Services on a reported insurance
12 claim payable to an obligor with a child support delinquency, if
13 the notice is received after an insurer or self-insurer has issued
14 payment on a claim.

15 (h) A support obligation shall be inferior to any lien or written
16 notice of assignment of interest of a health care provider or a
17 repair facility, attorney’s fees, or another assignment of interest
18 for services and expenses related to a claim.

19 (i) No requirement of this section shall delay payment of a claim.

20 13554. For purposes of this article, the following terms have
21 the following meanings:

22 (a) A “child support data match program” means an automated
23 data match or interactive lookup program that matches the names
24 of claimants with the names of child support obligors who owe
25 past due child support.

26 (a)

27 (b) (1) “Claim” means any of the following:

28 (A) Coverage for ~~an open, unresolved, a pending~~ bodily injury
29 claim that is payable by an insurer or self-insurer to an individual,
30 or to a third party for the benefit of the individual, ~~who is a resident~~
31 ~~of the state~~ for the following types of insurance:

32 (i) “Automobile liability coverage” has the meaning set forth
33 in Section 660.

34 (ii) “Homeowners’ liability coverage” means coverage under a
35 policy of residential property insurance ~~for the legal liability of a~~
36 ~~natural person or persons for loss of, damage to, or injury to,~~
37 ~~persons or property, bodily injury,~~ but not including policies
38 primarily insuring risks arising from the conduct of a commercial
39 or industrial enterprise. “Residential property insurance” has the
40 meaning set forth in Section 10087.

1 (iii) “Commercial liability insurance coverage” means coverage
2 under a policy of commercial insurance for the legal liability of
3 any person for loss of, damage to, or injury to persons or property,
4 arising from the conduct of a commercial or industrial enterprise.
5 “Commercial insurance” has the meaning set forth in Section 675.5.

6 (iv) “Liability insurance” has the meaning set forth in Section
7 108.

8 ~~(v) “Workers’ compensation coverage” means the coverage~~
9 ~~described~~

10 *(b) Workers’ compensation coverage described in Sections*
11 *3208.3, 4653, 4654, 4655, 4658, 4800, 4800.5, 4804.1, 4806, 4816,*
12 *and ~~4850~~ 4850, and 5000 of the Labor Code.*

13 ~~(B) Claims for a beneficiary who is making a claim on a life~~
14 ~~policy or annuity that was delivered to an individual or a group~~
15 ~~policyholder.~~

16 *(C) (i) Payment to the beneficiary of a life insurance policy or*
17 *annuity contract, including a payment in the form of a structured*
18 *settlement.*

19 *(ii) Payment of benefits resulting from cashing out or*
20 *accelerating benefits of a life insurance policy or annuity contract.*

21 *(iii) Payment of a loan taken against a life insurance policy or*
22 *annuity contract.*

23 *(D) “Disability income insurance” means the coverage*
24 *described in paragraph (5) of subdivision (b) of Section 106.*

25 *(2) A “claim” includes a nonrecurring payment of five hundred*
26 *dollars (\$500) or more or cumulative periodic payments of one*
27 *thousand two hundred dollars (\$1,200) or more over a 12-month*
28 *period prior to deductions allowed by this section.*

29 ~~(2)~~

30 *(3) A “claim” does not include ~~a liability policy that does not~~*
31 *pay for bodily injury, a claim for property damage or loss of use*
32 *of property, or a claim made against ~~an accident or a health~~*
33 *insurance policy, as defined in Section 106, or an accident policy,*
34 *whether the policy is an expense incurred policy or an indemnity*
35 *policy.*

36 *(c) An “insurance claim data collection organization” means*
37 *an insurance industry service provider that maintains a central*
38 *database of insurance claims information to assist subscribing*
39 *insurers in claims processing and in detecting and preventing*
40 *fraud.*

1 ~~(b)~~

2 (d) “Insurer” means an organization organized for the purpose
3 of assuming the risk of loss under a contract of insurance or
4 reinsurance, ~~and or an entity administering claims on behalf of the~~
5 ~~organization.~~ “Insurer” also includes any of the following
6 organizations:

7 (1) An admitted insurer.

8 ~~(2) A nonadmitted domestic insurer.~~

9 ~~(3)~~

10 (2) A nonadmitted foreign ~~insurer.~~ *insurer, if the coverage was*
11 *placed in accordance with Section 1760 or 1763.*

12 ~~(4)~~

13 (3) A nonadmitted alien ~~insurer.~~ *insurer, if the coverage was*
14 *placed in accordance with Section 1760 or 1763.*

15 (4) *The California Insurance Guarantee Association.*

16 (5) *The Uninsured Employers Fund.*

17 (6) *The Subsequent Injuries Benefits Trust Fund.*

18 (7) *The State Compensation Insurance Fund.*

19 ~~(e)~~

20 (e) “Obligor” means a person owing a duty of support.

21 ~~(f)~~

22 (f) “Self-insurer” means any entity that is self-insured for its
23 legal responsibility without the benefit of primary insurance,
24 through the use of a self-insured retention. This includes, but is
25 not limited to, any entity that directs handling of its claims through
26 a third party or as a result of a policy-buy-back, cost-sharing
27 agreement, or coverage-in-place agreement.

28 ~~(e)~~

29 (g) “Support” means a support obligation owing on behalf of a
30 ~~child, spouse, or family, or an amount owing child~~ pursuant to
31 ~~Section 17402 4001 or 17400~~ of the Family Code, and includes
32 ~~past due support or arrearage~~ “*child support delinquency,*” as
33 ~~defined in Section 17500 of the Family Code,~~ when it exists.
34 “Support,” when used with reference to a minor child or a child
35 ~~described in Section 3901 of the Family Code,~~ includes
36 ~~maintenance and education.~~

37 13556. (a) An ~~insurer~~ *insurer, self-insurer, child support data*
38 *match program, insurance claim data collection organization, or*
39 *insured* acting in good faith that complies with this article shall be
40 immune from civil liability to an individual or agency.

1 (b) Data obtained pursuant to this article may be used only for
2 the purpose of identifying child support obligors. If the Department
3 of Child Support Services does not match data obtained pursuant
4 to this article with a child support obligor, the ~~department~~
5 *Department of Child Support Services* shall not maintain that data
6 and shall immediately destroy that data.

7 (c) An insurance claim data collection organization, child
8 support data match program, insurer or self-insurer that provides,
9 attempts to provide, or in any way accesses data pursuant to this
10 article shall comply with all applicable state and federal laws for
11 the protection of the privacy and the security of that data, including,
12 but not limited to, the Insurance Information and Privacy Protection
13 Act (Chapter 1 (commencing with Section 791.01) of Part 2 of
14 Division 1), the Information Practices Act of 1977 (Chapter 1
15 (commencing with Section 1798.80) of Part 4 of Division 3 of
16 Title 1.81 of the Civil Code), and the federal Health Insurance
17 Portability and Accountability Act of 1996 (Public Law 104-191).

18 13560. (a) ~~If the commissioner has good cause to believe that~~
19 ~~an insurer or self-insurer violates Section 13552, has not complied~~
20 ~~with this article, the commissioner may, in his or her discretion,~~
21 ~~shall give written notice of the alleged noncompliance specifying~~
22 ~~a reasonable timeframe, not less than 30 days, during which the~~
23 ~~insurer or self-insurer shall correct the noncompliance. If the~~
24 ~~insurer or self-insurer fails to correct the noncompliance within~~
25 ~~the specified timeframe, the commissioner shall impose a fine not~~
26 ~~to exceed one thousand dollars (\$1,000) for each violation, and~~
27 ~~may shall issue an order requiring the violator to comply with~~
28 ~~Section 13552. this article.~~

29 (b) *If the insurer or self-insurer disagrees with the*
30 *commissioner's determination of noncompliance, the insurer or*
31 *self-insurer may request a hearing within 30 days of receipt of the*
32 *commissioner's notice of noncompliance. If a hearing is held*
33 *pursuant to this section, the proceedings shall be conducted in*
34 *accordance with Chapter 5 (commencing with Section 11500) of*
35 *Part 1 of Division 3 of Title 2 of the Government Code.*

36 (c) *This section does not require an insurer or self-insurer to*
37 *comply with a notice from the Department of Child Support*
38 *Services on a reported insurance claim payable to an obligor who*
39 *has a child support delinquency, if the insurer or self-insurer*
40 *receives the notice after having issued payment on the claim. If*

1 *the payment issued is a periodic payment, the insurer or*
2 *self-insurer shall comply with the notice with respect to subsequent*
3 *payments.*

4 13561. This article shall become operative July 1, 2016.

5 SEC. 2. The Legislature finds and declares that Section 1 of
6 this act, which adds Section 13556 to the Insurance Code, imposes
7 a limitation on the public’s right of access to the meetings of public
8 bodies or the writings of public officials and agencies within the
9 meaning of Section 3 of Article I of the California Constitution.
10 Pursuant to that constitutional provision, the Legislature makes
11 the following findings to demonstrate the interest protected by this
12 limitation and the need for protecting that interest: In order to
13 protect the privacy of insurance claimants and persons owed
14 past-due support, it is necessary that data obtained by the
15 Department of Child-Protective Support Services from insurers,
16 self-insurers, and insurance claim data collection organizations
17 pursuant to this act be confidential.