

THE SURPLUS LINE ASSOCIATION

OF CALIFORNIA

315 MONTGOMERY STREET

SAN FRANCISCO 94104

A. L. LATHROP
MANAGER

SAN FRANCISCO
TELEPHONE 988-0763
LOS ANGELES
510 SOUTH SPRING STREET
TELEPHONE 629-2571

February 2, 1966

NO. 240

BULLETIN TO ALL MEMBERS

RE: Claim Forms

The attached letter from the Insurance Department dated January 26, 1966, together with Insurance Department Bulletin No. NS-31 is directed to you for your information and guidance.



A. L. Lathrop
Manager

DEPARTMENT OF INSURANCE

1407 MARKET STREET
SAN FRANCISCO, CALIFORNIA 941031966 JAN 28 AM 8:57
January 26, 1966

Surplus Line Association
315 Montgomery Street
San Francisco, California 94104

ATTENTION: A. L. Lathrop
Manager

SUBJECT: Claim Forms

Gentlemen:

You will recall that sometime ago, we discussed our Bulletin NS-31 and the applicability of Section 556.1 of the Insurance Code, as added by Assembly Bill 1352 and enacted by the 1965 session of our legislature, to the claim forms used by surplus line brokers for claims against non-admitted insurers.

This will confirm our understanding that insofar as the surplus line brokers furnish the forms for and on behalf of the non-admitted insurer, it is probable that the position could be sustained that said Section 556.1 does apply, and the notice required by said section that a fraudulent claim is a misdemeanor should be upon such forms. In any event, there is no apparent reason why the forms used in the surplus line business should not, in this regard, conform with the same standards as are required of admitted insurers. It was our conclusion, therefore, that surplus line brokers probably are required by law to comply with the terms of said Bulletin NS-31 and Section 556.1 of the Insurance Code, and that in any event, they should do so.

Very truly yours,

RICHARD S. L. RODDIS
Insurance Commissioner

By


J. N. ANDREWS, Assistant Chief
Compliance & Legal Division

STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
1407 Market Street
San Francisco, California 94103

Bulletin No. NS-31

October 11, 1965

TO: ALL ADMITTED INSURERS
(OTHER THAN THOSE WRITING LIFE
OR DISABILITY EXCLUSIVELY)
AND OTHER INTERESTED PERSONS

SUBJECT: ASSEMBLY BILL NO. 1352
(Chap. 354, Stats. 1965)
(Section 556 of the Insurance Code
to be Printed on Claim and Related
Forms)

The above measure has been enacted into law, adding Section 556.1 to the Insurance Code. A copy of this statute is attached.

The new section becomes effective January 1, 1966. In essence, this section requires that on and after that date claim and related forms include the text of Section 556, Insurance Code (relating to the crime of defrauding an insurer), preceded by the statement: "For your protection California law requires the following to appear on this form" (or words of similar meaning).

While the statute does not appear to be ambiguous or unintelligible, a number of questions of interpretation have come to my attention. To aid in securing uniformity and to avoid confusion, I have decided to release the following statements which are my contemporaneous administrative interpretation of said statute.

1. The statute contains an express exemption for forms used to implement claims under policies "in which the principal or primary insurance is life, disability, or life and disability." I interpret this to mean that all claim forms involving other classes of insurance are subject to the statute. This is my interpretation although the statute may appear to be inconsistent with the practices in certain classes of insurance, such as surety, fidelity or workmen's compensation.

2. The statute appears to me to be all inclusive in respect to the claim and related forms to which it applies. It is to be noted the requirements cover all forms "printed or reproduced or furnished" by the insurer "to be used for the purpose of notice to "the insurer of accident, injury, death, fire or other loss" or "to constitute proof of claim, release of claim or substantiation of claim."

Specifically, I can see no exception in respect to check or draft forms which include a release, nor for certain forms of notice of injury or loss under liability or workmen's compensation policies which are normally executed by an employer, employee of the insured, or parent and not by the claimant. This result appears to be dictated by the use of the statutory phrase "furnished by it to others." Had the narrower meaning been intended, the word "others" would have been replaced by "insured" or "claimant."

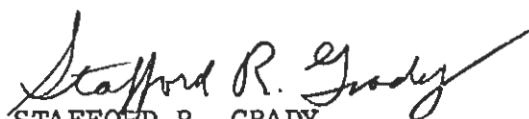
3. The statute basically relates to what must be in or on forms distributed by insurers and not to what must appear in a claim file. A form prepared by an insured or claimant (not filled in on a form "furnished by it /the insurer/") need not comply with the statute and the appearance in a claim file of one form complying with the statute would not necessarily result in complete compliance - i.e., if the insurer prepared several of the claim forms appearing in the file, each would have to comply with the statute.

October 11, 1965

4. The statutory language compels me to conclude that the phrase: "shall cause to be printed or displayed verbatim thereon" permits the required language to be imprinted on the forms with a rubber stamp. Assembly Bill No. 1352 is now a law of the State and I hope all insurers will comply with its intent, in good faith, making sure the required statement is clear and readable.

5. I am advised some have tentatively advocated the position that compliance with this statute is optional as to each insurer because the new section states no penalty for failure to comply. In my view, this is an erroneous conclusion. The new Section 556.1 is a law of the State. Section 700 provides in part: "After such issue [of a certificate of authority] the holder shall continue to comply with the requirements as to its business set forth in this code and in the laws of this State.", and Section 701 provides in part: "Notwithstanding the provisions of this section, whenever the Commissioner shall determine, after Notice and Hearing, that any insurer to whom such certificate has been issued . . . is otherwise in default for failure to comply with any of the laws of this State regarding the governmental control of such insurer by the State, he may order that such insurer comply with the said requirements within 30 days of such determination. If the insurer fails to comply within such period, the certificate of authority may be revoked,...."

Any doubts not dispelled by the above interpretations should be taken up with personnel of the Department's Compliance and Legal Division at San Francisco (1407 Market Street - Klondike 2-0212) or Los Angeles (107 So. Broadway - Madison 0-3030).


STAFFORD R. GRADY
Insurance Commissioner
of the State of California

CHAPTER.....

An act to add Section 556.1 to the Insurance Code, relating to insurance claims.

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

SECTION 1. Section 556.1 is added to the Insurance Code, to read:

556.1. Every insurer upon each form printed, reproduced or furnished by it to others to be used for the purpose of notice to it of accident, injury, death, fire or other loss or to constitute proof of claim, release of claim or substantiation of claim under any insurance contract issued by it, except under a policy in which the principal or primary insurance is life, disability, or life and disability, shall cause to be printed or displayed verbatim thereon, or on a rider attached thereto, in comparative prominence with other content, spacing and format thereof, the provisions of Section 556. Such reproduced provisions of Section 556 shall be preceded by the words: "For your protection California law requires the following to appear on this form" or other explanatory words of similar meaning.

SEC. 2. Section 1 of this act shall become operative on January 1, 1966.