

Assembly Bill No. 2384

CHAPTER 601

An act to amend Sections 10163.3, 10172.5, 10174, and 10489.93 of, and to add Sections 10163.35 and 10168.93 to, the Insurance Code, relating to life insurance.

[Approved by Governor September 20, 2004. Filed with Secretary of State September 20, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2384, Nakano. Life insurance.

Existing law requires that, with respect to any plan of life insurance that provides for future premium determination by the insurer based on estimates of future experience or that is of such a nature that minimum values cannot be determined by specified methods, any policy, contract, or certificate under the plan that is issued on or after a specified date must be filed with the Insurance Commissioner before it can be marketed, issued, delivered, or used. Existing law also provides that, with respect to any annuity contract that is of such a nature that minimum reserves cannot be determined by specified methods, the reserves held under the plan must be appropriate and computed in a manner consistent with regulations promulgated by the commissioner, but that individual life insurance policy forms need not be approved by the commissioner prior to marketing, issuance, delivery, or use.

This bill would instead require that the form of any policy, contract, or certificate providing life insurance that is issued on or after the specified date be filed by the obligor with the commissioner before being marketed, issued, delivered, or used.

It would also require that the form of any annuity contract subject to certain provisions of law regarding the nonforfeiture of benefits be filed by the obligor with the commissioner before being marketed, issued, delivered, or used.

Existing law provides that an insurer licensed to transact life insurance that fails to pay the proceeds of, or payments under, any policy of life insurance issued by it within 30 days after the death of the insured shall pay interest on the death proceeds left on deposit, as specified.

This bill would make this provision applicable to insurers admitted to transact credit life insurance and accidental death insurance.

Existing law provides that when the proceeds of, or payments under, a policy of life insurance become payable and the insurer makes payment in accordance with the terms of the policy or of a written assignment, the

payment shall fully discharge the insurer from all claims under the policy, unless it receives written notice before payment is made, as specified. Existing law also provides that when a policy of life insurance has been assigned in writing, the insurer may deal with the assignee in a manner not inconsistent with the terms of the assignment until the insurer receives written notice from another person who claims to be entitled to some interest in the policy. Existing law provides that policies of disability insurance that provide for death benefits, shall, as to those death benefits, be subject to these provisions.

This bill would provide that, in addition, policies of disability insurance that provide for death benefits, shall, as to those death benefits, also be subject to provisions that provide that an insurer that fails or refuses to pay the proceeds of, or payments under, any policy issued by it within 30 days after the date of death shall pay interest on death proceeds left on deposit with the insurer, as specified.

This bill would make other technical, nonsubstantive changes.

The bill would incorporate additional changes to Section 10172.5 of the Insurance Code proposed by AB 1910, contingent upon the prior enactment of that bill.

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

SECTION 1. Section 10163.3 of the Insurance Code is amended to read:

10163.3. In the case of any plan of life insurance that provides for future premium determination, the amounts of which are to be determined by the insurance company based on then estimates of future experience, or in the case of any plan of life insurance that is of such a nature that minimum values cannot be determined by the methods described in Section 10160, 10161, 10162, 10163, 10163.1, or 10163.2, then:

(a) The commissioner must be satisfied that the benefits provided under the plan are substantially as favorable to policyholders and insureds as the minimum benefits otherwise required by Section 10160, 10161, 10162, 10163, 10163.1, or 10163.2.

(b) The commissioner must be satisfied that the benefits and the pattern of premiums of that plan are not such as to mislead prospective policyholders or insureds.

(c) The cash surrender values and paid-up nonforfeiture benefits provided by the plan must not be less than the minimum values and benefits required for the plan computed by a method consistent with the principles of this Standard Nonforfeiture Law for Life Insurance, as determined by regulations promulgated by the commissioner.



SEC. 2. Section 10163.35 is added to the Insurance Code, to read:

10163.35. (a) Notwithstanding any other provision of law, the form of any policy, contract, or certificate providing life insurance that is subject to this article shall be filed by the obligor under the policy, contract, or certificate with the commissioner before it is marketed, issued, delivered, or used in this state.

(b) Nothing contained in this section shall be construed as requiring or providing for the prior approval by the commissioner of forms of individual life insurance policies, contracts, or certificates prior to the time the forms are marketed, issued, delivered, or used in this state.

SEC. 3. Section 10168.93 is added to the Insurance Code, to read:

10168.93. (a) Notwithstanding any other provision of law, the form of any annuity contract that is subject to this article shall be filed by the obligor under the contract with the commissioner before it is marketed, issued, delivered, or used in this state.

(b) Nothing contained in this section shall be construed as requiring or providing for the prior approval by the commissioner of forms of individual annuity contracts prior to the time the forms are marketed, issued, delivered, or used in this state.

SEC. 4. Section 10172.5 of the Insurance Code is amended to read:

10172.5. (a) Notwithstanding any other provision of law, each insurer admitted to transact life insurance, credit life insurance, or accidental death insurance in this state that fails or refuses to pay the proceeds of, or payments under, any policy of life insurance issued by it within 30 days after the date of death of the insured shall pay interest, at a rate not less than the then current rate of interest on death proceeds left on deposit with the insurer computed from the date of the insured's death, on any moneys payable and unpaid after the expiration of the 30-day period. This section shall apply only to deaths of insureds which occur on or after January 1, 1976.

(b) Nothing in this section shall be construed to allow any insurer admitted to transact life insurance, credit life insurance, or accidental death insurance in this state to withhold payment of money payable under a life insurance policy to any beneficiary for a period longer than reasonably necessary to transmit such payment. Whenever possible payment shall be made within 30 days after the date of death of the insured.

(c) In any case in which interest on the proceeds of, or payments under, any policy of life insurance, credit life insurance, or accidental death insurance becomes payable pursuant to subdivision (a), the insurer shall notify the named beneficiary or beneficiaries at their last known address that interest will be paid on the proceeds of, or payments under,



such policy from the date of death of the named insured. Such notice shall specify the rate of interest to be paid.

(d) This section shall not require the payment of interest in any case in which the beneficiary elects in writing delivered to the insurer to receive the proceeds of, or payments under, the policy by any means other than a lump-sum payment thereof.

SEC. 4.5. Section 10172.5 of the Insurance Code is amended to read:

10172.5. (a) Notwithstanding any other provision of law, each insurer admitted to transact life insurance, credit life insurance, or accidental death insurance in this state that fails or refuses to pay the proceeds of, or payments under, any policy of life insurance issued by it within 30 days after the date of death of the insured shall pay interest, at a rate not less than the then current rate of interest on death proceeds left on deposit with the insurer computed from the date of the insured's death, on any moneys payable and unpaid after the expiration of the 30-day period. This section shall apply only to deaths of insureds which occur on or after January 1, 1976.

(b) Nothing in this section shall be construed to allow any insurer admitted to transact life insurance, credit life insurance, or accidental death insurance in this state to withhold payment of money payable under a life insurance policy to any beneficiary for a period longer than reasonably necessary to transmit that payment. Whenever possible payment shall be made within 30 days after the date of death of the insured.

(c) In any case in which interest on the proceeds of, or payments under, any policy of life insurance, credit life insurance, or accidental death insurance becomes payable pursuant to subdivision (a), the insurer shall notify the named beneficiary or beneficiaries at their last known address that interest will be paid on the proceeds of, or payments under, that policy from the date of death of the named insured. That notice shall specify the rate of interest to be paid. In any case where the notice required by Section 249.5 of the Probate Code has been given to a life insurer, that insurer is not required to provide the notice required by this section until after it has been notified that a child has actually been born within two years of the death of the decedent. The obligation shall be deemed satisfied by giving notice to the person who first provides proof to the insurer that the child has been born alive.

(d) This section shall not require the payment of interest in any case in which the beneficiary elects in writing delivered to the insurer to receive the proceeds of, or payments under, the policy by any means other than a lump-sum payment thereof.

SEC. 5. Section 10174 of the Insurance Code is amended to read:



10174. Policies of disability insurance, as defined in Section 106, that provide for death benefits, shall, as to those death benefits, be subject to Sections 10172, 10172.5, and 10173.

SEC. 6. Section 10489.93 of the Insurance Code is amended to read:

10489.93. In the case of any plan of life insurance that provides for future premium determination, the amounts of which are to be determined by the insurance company based on then estimates of future experience, or in the case of any plan of life insurance or annuity that is of such a nature that the minimum reserves cannot be determined by the methods described in Sections 10489.5, 10489.6, and 10489.9, the reserves which are held under any such plan must:

(a) Be appropriate in relation to the benefits and the pattern of premiums for that plan; and

(b) Be computed by a method which is consistent with the principles of this Standard Valuation Law, as determined by regulations promulgated by the commissioner.

SEC. 7. Section 4.5 of this bill incorporates amendments to Section 10172.5 of the Insurance Code proposed by both this bill and AB 1910. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2005, (2) each bill amends Section 10172.5 of the Insurance Code, and (3) this bill is enacted after AB 1910, in which case Section 4 of this bill shall not become operative.

