

ASSEMBLY BILL

No. 1747

Introduced by Assembly Member Feuer

February 17, 2012

An act to amend Section 10173.2 of, and add Sections 10113.71 and 10113.72 to, the Insurance Code, relating to life insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1747, as introduced, Feuer. Life insurance: nonpayment premium lapse: notice.

Existing law requires that life insurance policies contain certain provisions, including, but not limited to, an individual life insurance policy notice of the right to cancel a policy. Existing law requires life insurers to provide certain notices to individual life insurance policyholders, including, but not limited to, a notice of premium increases.

This bill would require that every life insurance policy issued or delivered in this state contain a provision for a grace period of not less than 60 days from the premium due date that provides that where the premium owed is paid fully within the grace period the policy remains in force and a provision that gives the applicant the right to designate at least one individual, in addition to the applicant, to receive notice of lapse or termination of a policy for nonpayment of premium. The bill would require that every life insurance policy issued or delivered in this state, except group life insurance, contain a provision for the reinstatement of the policy at any time within 2 years from the date of default upon the written application of the insured and evidence of insurability, including good health, satisfactory to the insurer, and payment of amounts owed since the date of the default. The bill would

prohibit a notice of cancellation from being effective unless mailed by the insurer to the named insured, a named designee, a known assignee, or additional interest at least 30 days prior to the effective date of cancellation where cancellation is for nonpayment of premium. The bill would also make conforming changes.

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

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

1 SECTION 1. Section 10113.71 is added to the Insurance Code,
2 to read:

3 10113.71. (a) (1) Every life insurance policy issued or
4 delivered in this state shall contain a provision for a grace period
5 of not less than 60 days from the premium due date that provides
6 that where the premium owed is fully paid within the grace period
7 the policy shall remain in force.

8 (2) Every life insurance policy issued or delivered in this state,
9 except group life insurance, shall contain a provision that the policy
10 shall be reinstated at any time within two years from the date of
11 default upon the written application of the insured and evidence
12 of insurability, including good health, satisfactory to the insurer,
13 and payment of amounts owed since the date of the default.

14 (b) (1) A notice of cancellation of a life insurance policy shall
15 not be effective unless mailed by the insurer to the named insured,
16 a designee named pursuant to Section 10113.72, a known assignee,
17 or additional interest at least 30 days prior to the effective date of
18 cancellation where cancellation is for nonpayment of premium.

19 (2) This subdivision shall not apply to nonrenewal.

20 (3) Notice shall be given by first-class United States mail,
21 postage prepaid, not less than 30 days after a premium is due and
22 unpaid. However, notices made to assignees pursuant to this section
23 may be done electronically with consent of the assignee.

24 (c) For purposes of this section, a life insurance policy includes,
25 but is not limited to, an individual life insurance policy, an
26 individual variable life insurance policy, and a group life insurance
27 policy, except where otherwise provided.

28 SEC. 2. Section 10113.72 is added to the Insurance Code, to
29 read:

1 10113.72. (a) An individual life insurance policy shall not be
2 issued or delivered in this state until the applicant has been given
3 the right to designate at least one individual, in addition to the
4 applicant, to receive notice of lapse or termination of a policy for
5 nonpayment of premium. The insurer shall receive from each
6 applicant one of the following:

7 (1) A written designation listing the name, address, and
8 telephone number of at least one individual, in addition to the
9 applicant, who is to receive notice of lapse or termination of the
10 policy for nonpayment of premium.

11 (2) A waiver signed and dated by the applicant electing not to
12 designate additional persons to receive notice. The required waiver
13 shall read as follows:

14

15 “Protection Against Unintended Lapse.

16 I understand that I have the right to designate at least one person
17 other than myself to receive notice of lapse or termination of this
18 life insurance policy for nonpayment of premium. I understand
19 that notice will not be given until 30 days after a premium is due
20 and unpaid. I elect not to designate a person to receive the notice.

21 Signature of Applicant

22 Date

23

24 (b) The insurer shall notify the insured of the right to change
25 the written designation, no less often than once every two years.

26 (c) No individual life insurance policy shall lapse or be
27 terminated for nonpayment of premium unless the insurer, at least
28 30 days prior to the effective date of the lapse or termination, gives
29 notice to the insured and to the individual or individuals designated
30 pursuant to subdivision (a), at the address provided by the insured
31 for purposes of receiving notice of lapse or termination. Notice
32 shall be given by first-class United States mail, postage prepaid,
33 not less than 30 days after a premium is due and unpaid.

34 (d) Each individual life insurance policy shall include a
35 provision that, in the event of lapse, provides for reinstatement of
36 coverage, if the insurer is provided with proof of the insured’s
37 cognitive impairment or the loss of functional capacity. This option
38 shall be available to the insured if requested within five months
39 after termination and shall allow for the collection of a past due
40 premium, where appropriate. The standard of proof of cognitive

1 impairment or loss of functional capacity shall not be more
2 stringent than the benefit eligibility criteria on cognitive impairment
3 or the loss of functional capacity contained in the policy.

4 SEC. 3. Section 10173.2 of the Insurance Code is amended to
5 read:

6 10173.2. When a policy of life insurance is, after the effective
7 date of this section, assigned in writing as security for an
8 indebtedness, the insurer shall, in any case in which it has received
9 written notice of the name and address of the assignee, mail to
10 ~~such the~~ assignee a written notice, postage prepaid and addressed
11 to the assignee’s address filed with the insurer, not less than ~~10~~ 30
12 days prior to the final lapse of the policy, each time the insured
13 has failed or refused to transmit a premium payment to the insurer
14 before the commencement of the policy’s grace period or before
15 ~~such the~~ notice is mailed. The insurer shall give ~~such that~~ notice
16 to the assignee in the proper case while ~~such the~~ assignment
17 remains in effect, unless the assignee has notified the insurer in
18 writing that ~~such the~~ notice is waived. The insurer shall be
19 permitted to charge the insured directly or against the policy the
20 reasonable cost of complying with this section, but in no event to
21 exceed two dollars and fifty cents (\$2.50) for each ~~such~~ notice.

22 As used in this section, “final lapse of the policy” means the
23 date after which the policy will not be reinstated by the insurer
24 without requiring evidence of insurability or written application.