

AMENDED IN ASSEMBLY APRIL 26, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1747

Introduced by Assembly Member Feuer

February 17, 2012

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1747, as amended, 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~~ *person*, 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~~ *pending lapse and termination* from being effective unless mailed by the insurer to the named insured, a named designee, *and* a known assignee; or ~~additional~~ *other person having an interest in the policy* at least 30 days prior to the effective date of ~~cancellation~~ *where cancellation termination if termination* 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 provision shall provide that if* the premium owed
 7 is fully paid within the grace period the policy shall remain in
 8 force.
 9 ~~(2) Every life insurance policy issued or delivered in this state,~~
 10 ~~except group life insurance, shall contain a provision that the policy~~
 11 ~~shall be reinstated at any time within two years from the date of~~
 12 ~~default upon the written application of the insured and evidence~~
 13 ~~of insurability, including good health, satisfactory to the insurer,~~
 14 ~~and payment of amounts owed since the date of the default.~~
 15 (b) (1) A notice of ~~cancellation~~ *pending lapse and termination*
 16 of a life insurance policy shall not be effective unless mailed by
 17 the insurer to the named insured, a designee named pursuant to
 18 Section 10113.72, *and* a known assignee, or ~~additional~~ *other person*
 19 *having an interest in the policy*, at least 30 days prior to the
 20 effective date of ~~cancellation~~ *where cancellation* ~~termination if~~
 21 *termination* is for nonpayment of premium.
 22 (2) This subdivision shall not apply to nonrenewal.
 23 (3) Notice shall be given *to the insured and to the designee* by
 24 first-class United States mail, postage prepaid, not less than 30
 25 days after a premium is due and unpaid. However, notices made
 26 to assignees pursuant to this section may be done electronically
 27 with consent of the assignee.

1 (c) For purposes of this section, a life insurance policy includes,
 2 but is not limited to, an individual life insurance policy,~~an~~
 3 ~~individual variable life insurance policy~~, and a group life insurance
 4 policy, except where otherwise provided.

5 SEC. 2. Section 10113.72 is added to the Insurance Code, to
 6 read:

7 10113.72. (a) An individual life insurance policy shall not be
 8 issued or delivered in this state until the applicant has been given
 9 the right to designate at least one ~~individual person~~, in addition to
 10 the applicant, to receive notice of lapse or termination of a policy
 11 for nonpayment of premium. The insurer shall receive from each
 12 applicant ~~one of the following:~~ (1) ~~A~~ a written designation listing
 13 the name, address, and telephone number of at least one ~~individual~~
 14 ~~person~~, in addition to the applicant, who is to receive notice of
 15 lapse or termination of the policy for nonpayment of premium.

16 (2) ~~A waiver signed and dated by the applicant electing not to~~
 17 ~~designate additional persons to receive notice. The required waiver~~
 18 ~~shall read as follows:~~

19
 20

21 ~~“Protection Against Unintended Lapse.~~

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

27 Signature of Applicant

28 Date

29

30 (b) The insurer shall notify the insured of the right to change
 31 the written designation, ~~no less often than once every two years~~
 32 ~~or designate one or more persons, if the insured did not designate~~
 33 ~~a person at the time the policy took effect, when the insured’s~~
 34 ~~premium is due. The insured may change the designation more~~
 35 ~~often if he or she chooses to do so.~~

36 (c) No individual life insurance policy shall lapse or be
 37 terminated for nonpayment of premium unless the insurer, at least
 38 30 days prior to the effective date of the lapse or termination, gives
 39 notice to the insured and to the ~~individual person or individuals~~
 40 ~~persons~~ designated pursuant to subdivision (a), at the address

1 provided by the insured for purposes of receiving notice of lapse
2 or termination. Notice shall be given by first-class United States
3 mail, postage prepaid, not less than 30 days after a premium is due
4 and unpaid.

5 (d) Each individual life insurance policy shall include a
6 provision that, in the event of lapse, provides for reinstatement of
7 coverage, if the insurer is provided with proof of the insured’s
8 cognitive impairment or the loss of functional capacity. This option
9 shall be available to the insured if requested within five months
10 after termination and shall allow for the collection of a past due
11 premium, where appropriate. The standard of proof of cognitive
12 impairment or loss of functional capacity shall not be more
13 stringent than the benefit eligibility criteria on cognitive impairment
14 or the loss of functional capacity contained in the policy.

15 SEC. 3. Section 10173.2 of the Insurance Code is amended to
16 read:

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

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

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