

Senate Bill No. 599

CHAPTER 423

An act to amend Section 10170 of the Insurance Code, relating to life insurance.

[Approved by Governor October 2, 2011. Filed with
Secretary of State October 2, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

SB 599, Kehoe. Life insurance: retained-asset account.

Existing law provides that life insurance may be made payable, among other things, on the death of the insured, on his or her surviving for a specified period of time, or periodically as long as he or she lives.

This bill would require that all life insurance benefits be paid in the form of a lump-sum payment to the beneficiary or by another settlement option that is clearly described in the claim form. If the beneficiary does not choose one of the available settlement options, a retained-asset account would be authorized to be the default option only if the claim form provides a prominent disclosure, as prescribed, that in the absence of a choice by the beneficiary, payment of policy benefits would be made through establishment of a retained-asset account on the beneficiary's behalf. Any life insurance benefits settlement an insurer offers or recommends, other than for a lump-sum payment, would be required to conform to specified conditions. The bill would authorize the Insurance Commissioner to adopt regulations specifying reasonable requirements for the form of agreements entered into and written disclosures provided by these provisions.

The bill would only become operative if SB 713 of the 2011–12 Regular Session is enacted and becomes effective.

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

SECTION 1. Section 10170 of the Insurance Code is amended to read:
10170. Life insurance may be made payable as follows:

- (a) On the death of the insured.
- (b) On his or her surviving a specified period.
- (c) Periodically as long as he or she lives.
- (d) Otherwise contingently on the continuance or determination of life.
- (e) Upon those terms and conditions and subject to those restrictions as to revocation by the policyholder and control by beneficiaries as shall have been agreed to in writing by the insurer and the policyholder. If no terms and conditions have been agreed to by the insurer and the policyholder during the insured's lifetime then upon those terms and conditions and

subject to those restrictions as may be agreed to in writing by the insurer and the beneficiaries. Any agreement may be rescinded or amended by the parties to the agreement without the consent of any designated beneficiary unless the rights of any beneficiary have been expressly declared to be irrevocable. No agreement hereafter made shall vest in the insurer discretion as to the conditions, time, amount, manner, or method of payment. The relationship between the insurer and the policyholder or beneficiaries under any agreement shall be that of debtor and creditor, and the insurer shall not be required to segregate funds so held but shall hold them as a part of its general corporate assets.

(f) Notwithstanding subdivision (e), all life insurance benefits shall be paid in the form of a lump-sum payment to the beneficiary or by another settlement option that is clearly described in the claim form. If the beneficiary is provided settlement options in addition to a lump-sum payment or a settlement option selected by the policyholder, the beneficiary shall have the option to choose how benefits are to be paid to the beneficiary. If the beneficiary does not choose one of the available settlement options, a retained-asset account may be the default option only if the claim form provides a prominent disclosure that, in the absence of a choice by the beneficiary, payment of policy benefits shall be made through establishment of a retained-asset account on the beneficiary's behalf. This disclosure shall be provided in the portion of the claim form where the beneficiary is offered the ability to select his or her choice of payment method and shall be in easy-to-understand language and in bold and at least 12-point font type. In all such cases, whether by beneficiary choice or default, the insurer shall provide to the beneficiary the disclosure provided for in Section 10509.937.

(1) If an insurer offers an option or recommends the option to a policyholder of an individual or group life insurance policy that the beneficiary receive life insurance proceeds in the form of a retained-asset account or any arrangement other than a lump-sum payment, the insurer shall provide the policyholder, at the time the offer or recommendation is made, written information describing each of the settlement options available under the policy and specific details relevant to those options. If an insurer offers or recommends to a beneficiary that the beneficiary receive life insurance proceeds in the form of a retained-asset account or any arrangement other than a lump-sum payment in advance of the time the claim is made, the insurer shall provide the beneficiary written information describing each of the settlement options available under the policy and specific details relevant to those options. If an insurer offers or recommends to a beneficiary that the beneficiary receive life insurance proceeds in the form of a retained-asset account at the time a claim is being made, the insurer shall comply with the procedures set forth in Article 11 (commencing with Section 10509.930) of Chapter 5.

(2) For purposes of this subdivision, the following terms have the following meanings:

(A) "Lump-sum payment" means a single payment made directly to the beneficiary that satisfies all of the benefits owed to the beneficiary.

(B) “Retained-asset account” means any mechanism whereby the settlement of proceeds payable under a life insurance policy is accomplished by the insurer, or an entity acting on behalf of the insurer, by depositing those proceeds into an account with check or draft writing privileges, and where those proceeds are retained by the insurer pursuant to a supplemental contract not involving annuity benefits.

(g) An insurer that fails to conform to the requirements provided under this section shall be subject to Article 6.5 (commencing with Section 790) of Chapter 1 of Part 2 of Division 1.

(h) The commissioner may, from time to time and after notice and public hearing, adopt regulations specifying reasonable requirements for the form of agreements entered into and written disclosures provided pursuant to subdivisions (e) and (f), and for compliance with Section 10172.5.

SEC. 2. This act shall only become operative if Senate Bill 713 of the 2011–12 Regular Session of the Legislature is enacted and becomes effective.