

AMENDED IN SENATE MAY 17, 2011
AMENDED IN SENATE APRIL 28, 2011
AMENDED IN SENATE APRIL 13, 2011
AMENDED IN SENATE APRIL 4, 2011
AMENDED IN SENATE MARCH 31, 2011

SENATE BILL

No. 713

**Introduced by Senator Calderon
(Coauthors: Senators Anderson, Corbett, Correa, Gaines,
Lowenthal, and Wyland)**

February 18, 2011

An act to add Article 11 (commencing with Section 10509.930) to Chapter 5 of Part 2 of Division 2 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 713, as amended, Calderon. Insurance: proceeds: disclosure.

Existing law requires insurers to fulfill certain requirements with regard to life insurance policies.

This bill, the Life Insurance Proceeds Disclosure Act of 2011, would require insurers to provide written disclosures to life insurance beneficiaries, as specified, at the time a claim is made and before a retained asset account, as defined, is selected or established as the benefit payment. The bill would require an insurer that settles life insurance benefits through a retained asset account to provide the beneficiary with a supplemental contract that clearly discloses the rights of the beneficiary and the obligations of the insurer under the supplemental contract. *The bill would also require, if the life insurance benefits are placed in a*

retained asset account, the insurer to send the beneficiary at least one statement per quarter, and a statement for any month in which there has been any account activity other than the crediting of interest.

The bill would provide that an insurer that fails to conform to the requirements of the above provisions would be subject to provisions of existing law that provide for the imposition of a civil penalty against any person who engages in any unfair method of competition or any unfair or deceptive act or practice in the business of insurance, as provided.

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. Article 11 (commencing with Section 10509.930)
2 is added to Chapter 5 of Part 2 of Division 2 of the Insurance Code,
3 to read:

4
5 Article 11. Life Insurance Proceeds Disclosure Act of 2011
6
7 10509.930. This act shall be known and may be cited as the
8 Life Insurance Proceeds Disclosure Act of 2011.

9 10509.931. The Legislature finds and declares all of the
10 following:

11 (a) The occasion of the death of a spouse, parent, child, partner,
12 or other loved one is a difficult time, accompanied by severe
13 emotional stress, and is frequently a time of important and often
14 difficult financial decisions.

15 (b) Life insurance is intended to provide an important resource
16 to support and ease financial decisions at such a time.

17 (c) While life insurance policies may provide for a single
18 payment of the death benefit, policies may also offer alternative
19 payout options, including the use of a retained asset account ~~that~~
20 ~~can provide desired flexibility and fit the consumer's needs and~~
21 ~~the needs of the consumer's family.~~

22 (d) The inherent difficulty of financial decisions at such a time
23 may be eased if consumers know what their available payment
24 options are so they can receive the benefit of available life
25 insurance policy proceeds in the form best suited to their
26 circumstances and needs.

1 10509.932. The purpose of this act is to establish disclosure
2 standards regarding the payment of life insurance benefits to a
3 beneficiary by means of a retained asset account if a life insurance
4 company offers consumers a retained asset account or establishes
5 such an account as an alternative to the receipt of insurance
6 proceeds by a single payment made directly to the beneficiary that
7 satisfies all of the benefits owed to the beneficiary.

8 10509.933. For the purposes of this article, the following terms
9 have the following definitions:

10 (a) “Insurer” means an insurance company that delivers or issues
11 for delivery in this state any policy of individual or group life
12 insurance.

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

20 10509.934. The insurer shall provide the beneficiary of life
21 insurance proceeds, at the time a claim is made, written information
22 describing the settlement options available under the policy and
23 any other option available to the beneficiary for the receipt of
24 proceeds, including retained asset accounts, and how to obtain
25 specific details relevant to those options. If a retained asset account
26 is one of the available options, the written information shall include
27 all of the disclosures required by Section ~~10509.936~~ 10509.937.

28 10509.935. If the insurer settles life insurance benefits through
29 a retained asset account, the insurer shall provide the beneficiary
30 with a supplemental contract that clearly discloses the rights of
31 the beneficiary and the obligations of the insurer under the
32 supplemental contract.

33 *10509.936. If the life insurance benefits are placed in a retained*
34 *asset account, the insurer shall send the beneficiary at least one*
35 *statement per quarter, and a statement for any month in which*
36 *there has been account activity other than just the crediting of*
37 *interest.*

38 ~~10509.936.~~

39 10509.937. The insurer shall provide the following written
40 disclosures to the beneficiary before the retained asset account is

1 established, unless the insurer has already provided these
2 disclosures pursuant to Section 10509.934:

3 (a) Payment of the full benefit is accomplished by delivery of
4 the draft book or checkbook.

5 (b) One draft or check may be written to access the entire
6 amount, including interest, of the retained asset account at any
7 time.

8 (c) Whether the available settlement options are preserved until
9 the entire balance is withdrawn or the balance drops below the
10 insurer's minimum balance requirements.

11 (d) A statement identifying the account as either a checking or
12 draft account and an explanation of how the account works,
13 including, but not limited to, any minimum check or draft amount
14 requirements.

15 (e) Information about the account services provided and contact
16 information where the beneficiary may request and obtain more
17 details about those services.

18 (f) A description of any fees charged, if applicable.

19 (g) The frequency of statements showing the current account
20 balance, the interest credited, drafts or checks written, and any
21 other account activity. The insurer shall send the beneficiary at
22 least one statement per quarter, and a statement for any month in
23 which there has been account activity other than just the crediting
24 of interest.

25 (h) The *guaranteed* minimum interest rate to be credited to the
26 account ~~and~~, how the actual interest rate will be determined, *and*
27 *the actual interest rate that would be credited as of the date of the*
28 *disclosure to a newly opened account. The actual interest rate may*
29 *be disclosed by the insurer with the disclosures provided with the*
30 *claim documents sent to the beneficiary, through a toll-free*
31 *telephone number established by the insurer, or through the*
32 *insurer's Internet Web site.*

33 (i) That the interest earned on the account may be taxable.

34 (j) Retained asset account funds held by insurance companies
35 are not guaranteed by the Federal Deposit Insurance Corporation
36 (FDIC), but are guaranteed by State Guaranty Associations, and
37 that the State Guaranty Association coverage limits vary by state.

38 (k) A statement that advises the beneficiary to contact the
39 National Organization of Life and Health Insurance Guaranty
40 Associations (NOLHGA) to learn more about the coverage

1 limitations applicable to his or her account, and that provides the
2 beneficiary with the current Internet Web site address and telephone
3 number for NOLHGA.

4 (I) A description of the insurer's policy regarding retained asset
5 accounts that become inactive, including the policy with respect
6 to inactive accounts that are at risk of escheating to the state
7 pursuant to the California Unclaimed Property Law (Chapter 7
8 (commencing with Section 1500) of Title 10 of Part 3 of the Code
9 of Civil Procedure).

10 ~~10509.937.~~

11 *10509.938.* An insurer that fails to conform to the requirements
12 provided under this article shall be subject to Article 6.5
13 (commencing with Section 790) of Chapter 1 of Part 2 of Division
14 1.

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