

AMENDED IN ASSEMBLY JUNE 15, 2011

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.

The bill would become operative if SB 599 of the 2011–12 Regular Session is enacted and becomes effective.

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.

20 (d) The inherent difficulty of financial decisions at such a time
21 may be eased if consumers know what their available payment
22 options are so they can receive the benefit of available life

1 insurance policy proceeds in the form best suited to their
2 circumstances and needs.

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

10 10509.933. For the purposes of this article, the following terms
11 have the following definitions:

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

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

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

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

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

1 10509.937. The insurer shall provide the following written
2 disclosures to the beneficiary before the retained asset account is
3 established, unless the insurer has already provided these
4 disclosures pursuant to Section 10509.934:

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

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

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

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

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

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

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

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

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

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

1 (k) A statement that advises the beneficiary to contact the
2 National Organization of Life and Health Insurance Guaranty
3 Associations (NOLHGA) to learn more about the coverage
4 limitations applicable to his or her account, and that provides the
5 beneficiary with the current Internet Web site address and telephone
6 number for NOLHGA.

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

13 10509.938. An insurer that fails to conform to the requirements
14 provided under this article shall be subject to Article 6.5
15 (commencing with Section 790) of Chapter 1 of Part 2 of Division
16 1.

17 *SEC. 2. This act shall become operative if Senate Bill 599 of*
18 *the 2011–12 Regular Session of the Legislature is enacted and*
19 *becomes effective.*