

Senate Bill No. 713

CHAPTER 130

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.

[Approved by Governor July 26, 2011. Filed with
Secretary of State July 26, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

SB 713, 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 only if SB 599 of the 2011–12 Regular Session is enacted and becomes effective.

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

SECTION 1. Article 11 (commencing with Section 10509.930) is added to Chapter 5 of Part 2 of Division 2 of the Insurance Code, to read:

Article 11. Life Insurance Proceeds Disclosure Act of 2011

10509.930. This act shall be known and may be cited as the Life Insurance Proceeds Disclosure Act of 2011.

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

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

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

(c) While life insurance policies may provide for a single payment of the death benefit, policies may also offer alternative payout options, including the use of a retained asset account.

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

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

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

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

(b) “Retained asset account” means any mechanism where 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 the 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.

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

10509.935. If the insurer settles life insurance benefits through a retained asset account, the insurer shall 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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