

AMENDED IN ASSEMBLY MAY 15, 2014
AMENDED IN ASSEMBLY APRIL 29, 2014
AMENDED IN ASSEMBLY APRIL 10, 2014
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1804

Introduced by Assembly Member Perea

February 18, 2014

An act to add Section 396 to the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1804, as amended, Perea. Insurance: notice of lapse.

Existing law requires an insurance policy to specify certain information, including, but not limited to, the parties to the contract, the property or life insured, the risks insured against, the premium, and the coverage period.

This bill, commencing July 1, 2015, would ~~prohibit~~ *provide, with regard to* an individual insurance policy covering real property, personal property, as described, liability, or health, issued or renewed on or after July 1, 2015, ~~from being issued until the applicant has been given that an insured has~~ the right to designate *in writing* one individual, in addition to the applicant, to receive ~~the~~ notice of lapse, termination, expiration, nonrenewal, or cancellation of the policy for nonpayment of ~~the~~ premium, as ~~provided.~~ *specified*. The bill would prohibit an insurance policy from lapsing or being terminated for nonpayment of ~~the~~ premium unless the insurer, at least 10 days prior to the effective date of the lapse, termination, expiration, nonrenewal, or cancellation, gives notice, as provided, ~~to the insured and to the individual designated,~~ if any, at the address provided by the insured for these purposes. The

bill would specify that an individual designated by a policyholder does not have any rights, whether as an additional insured or otherwise, to any benefits under the policy, other than the right to receive the notice of lapse, termination, expiration, nonrenewal, or cancellation *for nonpayment of premium.*

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 396 is added to the Insurance Code, to
2 read:

3 ~~396. (a) An individual policy shall not be issued until the~~
4 ~~applicant has been given the right to designate one individual, in~~
5 ~~addition to the applicant, to receive the notice of lapse, termination,~~
6 ~~expiration, nonrenewal, or cancellation of a policy for nonpayment~~
7 ~~of the premium. Upon application for issuance of a policy, the~~
8 ~~insurer shall provide the applicant with 30 days to do one of the~~
9 ~~following:~~

10 ~~(1) Designate in writing the name, address, and telephone~~
11 ~~number of one individual, in addition to the applicant, who is to~~
12 ~~receive the notice of lapse, termination, expiration, nonrenewal,~~
13 ~~or cancellation for nonpayment of the premium.~~

14 ~~(2) (A) Provide a written waiver signed and dated by the~~
15 ~~applicant electing not to designate an individual to receive the~~
16 ~~notice of lapse, termination, expiration, nonrenewal, or cancellation~~
17 ~~for nonpayment of the premium.~~

18 ~~(B) The required waiver shall read as follows:~~

19 -
20 ~~“Protection Against Unintended Lapse, Termination, Expiration,~~
21 ~~Nonrenewal, or Cancellation:~~

22 ~~I understand that I have the right to designate one person other~~
23 ~~than myself to receive the notice of lapse, termination, expiration,~~
24 ~~nonrenewal, or cancellation of this insurance policy for~~
25 ~~nonpayment of the premium. I understand that notice will be given~~
26 ~~within 10 days after a premium is due and unpaid. I elect not to~~
27 ~~designate any person to receive the notice.~~

28 ~~Dated: _____ Signature of Applicant: _____”~~

29 -

1 396. (a) *An insured has the right to designate in writing one*
2 *additional person to receive notice of lapse, termination,*
3 *expiration, nonrenewal, or cancellation of a policy for nonpayment*
4 *of premium.*

5 (b) *Unless an applicant for insurance has been provided notice*
6 *of the right set forth in this section prior to inception of the policy,*
7 *the insurer shall provide the insured, within 30 days after the*
8 *inception date of an individual policy described in subdivision (h),*
9 *with notice of the right to designate one person, in addition to the*
10 *insured, to receive the notice of lapse, termination, expiration,*
11 *nonrenewal, or cancellation of a policy for nonpayment of*
12 *premium. The insurer shall provide each applicant or insured with*
13 *written notice and a form to make the designation. That form shall*
14 *provide the opportunity for the applicant or insured to submit the*
15 *name, address, and telephone number of one person, in addition*
16 *to the applicant or insured, who is to receive notice of lapse,*
17 *termination, expiration, nonrenewal, or cancellation of the policy*
18 *for nonpayment of premium.*

19 ~~(3)~~

20 (c) *If after receiving notice from the insurer of the right to*
21 *designate an individual to receive the notice of lapse, termination,*
22 *expiration, nonrenewal, or cancellation for nonpayment of the*
23 *premium, the applicant fails to take action pursuant to either*
24 *paragraph (1) or paragraph (2) subdivision (a) within 30 days, the*
25 *insured is deemed to have waived the right to designate a person.*
26 *shall be conclusively presumed to have declined the opportunity*
27 *to exercise his or her right at that time.*

28 ~~(b)~~

29 (d) *Notwithstanding subparagraph (C) of paragraph (2) of*
30 *subdivision (a) of Section 791.13 or any other law, the insurer*
31 *shall retain and utilize as necessary the contact information*
32 *provided in the written designation for the lifetime of the policy,*
33 *and allow the insured to update the written designation if the*
34 *insured so requests.*

35 ~~(e) Not less than every two years, the insurer shall notify the~~
36 ~~insured in writing of whichever of the following applies:~~

37 (e) *An insured retains the right to designate an additional person*
38 *to receive notice of lapse, termination, expiration, nonrenewal, or*
39 *cancellation for nonpayment of premium at any time, at the*
40 *initiative of the insured, regardless of whether the insured*

1 *previously declined to exercise that right. Not less than every two*
2 *years, the insurer shall notify the insured in writing of whichever*
3 *of the following applies:*

4 (1) If an insured has previously provided a written designation
5 pursuant to ~~paragraph (1) of subdivision (a)~~, the right to change
6 the prior written designation by adding or deleting a person to
7 receive ~~the~~ notice of lapse, termination, expiration, nonrenewal,
8 or cancellation for nonpayment of ~~the~~ premium.

9 (2) If the insured has previously waived the right to designate
10 a person pursuant to ~~paragraph (2) of subdivision (a)~~, to exercise
11 ~~the right to designate~~ a person to receive ~~the~~ notice of lapse,
12 termination, expiration, nonrenewal, or cancellation for
13 nonpayment of ~~the~~ premium.

14 ~~(d)~~

15 (f) When ~~the~~ *an* insured pays the premium for an insurance
16 policy through a payroll or pension deduction plan, the
17 requirements contained in subdivision (a) need not be met until
18 60 days after the insured is no longer on that deduction payment
19 plan. The application form for an insurance policy shall clearly
20 indicate the deduction payment plan selected by the applicant.

21 ~~(e)~~

22 (g) An insurance policy shall not lapse or be terminated for
23 nonpayment of ~~the~~ premium unless the insurer, at least 10 days
24 prior to the effective date of the lapse, termination, expiration,
25 nonrenewal, or cancellation, gives notice ~~to the insured and~~ to the
26 individual designated pursuant to subdivision (a) at the address
27 provided by the insured for purposes of receiving the notice of
28 lapse, termination, expiration, nonrenewal, or cancellation for
29 nonpayment of ~~the~~ premium. Notice shall be given by first-class
30 United States mail, postage prepaid, within 10 days after the
31 premium is due and unpaid. *This subdivision does not modify*
32 *requirements for notice to the insured of lapse, termination,*
33 *expiration, nonrenewal, or cancellation set forth in other sections*
34 *of this code.*

35 ~~(f)~~

36 (h) This section applies to policies of insurance, other than
37 workers' compensation insurance, on risks located or resident in
38 this state that are issued and take effect or that are renewed after
39 the effective date of this section and insuring any of the following
40 contingencies:

1 (1) Loss of or damage to real property that is used predominantly
2 for residential purposes and that consists of not more than four
3 dwelling units.

4 (2) Loss of or damage to personal property in which natural
5 persons resident in specifically described real property of the kind
6 described in paragraph (1) have an insurable interest, except
7 personal property used in the conduct of a commercial or industrial
8 enterprise.

9 (3) Legal liability of a natural person or persons for loss of,
10 damage to, or injury to, persons or property, but not including
11 policies primarily insuring risks arising from the conduct of a
12 commercial or industrial enterprise.

13 (4) Disability and health insurance as defined in Section 106.

14 ~~(g)~~

15 (i) This section applies to policies that are issued and take effect
16 or that are renewed on or after July 1, 2015.

17 ~~(h)~~

18 (j) An individual designated by a policyholder pursuant to this
19 section to receive ~~the~~ notice of lapse, termination, expiration,
20 nonrenewal, or cancellation of the policy for nonpayment of
21 ~~the~~ premium does not have any rights, whether as an additional
22 insured or otherwise, to any benefits under the policy, other than
23 the right to receive ~~the~~ notice as provided by this section.

24 ~~(i)~~

25 (k) This section shall become effective on July 1, 2015.