

AMENDED IN SENATE AUGUST 7, 2014

AMENDED IN SENATE JULY 1, 2014

AMENDED IN ASSEMBLY MAY 28, 2014

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, premium, and the coverage period.

This bill, commencing January 1, 2016, and with regard to private passenger automobile insurance that provides coverage for 6 months or longer, specified residential property insurance, and policies of individual disability income insurance that are issued and take effect or that are renewed on or after January 1, 2016, would require an insurer to maintain a verifiable-delivery process or adopt a procedure that allows an applicant or policyholder to designate one additional person to receive notice of lapse, termination, expiration, nonrenewal, or cancellation of

a policy for nonpayment of premium, as specified. The bill would prohibit an insurance policy from lapsing or being terminated for nonpayment of 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 individual designated, if any, at the address provided by the policyholder 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 insurer shall do either of the following:

4 (1) Maintain a verifiable ~~delivery~~ process that allows a
5 policyholder to designate in writing or by electronic transmission
6 pursuant to Section 38.5 one additional person to receive notice
7 of lapse, termination, expiration, nonrenewal, or cancellation of a
8 policy for nonpayment of premium. The insurer shall notify the
9 policyholder in writing or by electronic transmission pursuant to
10 Section 38.5 of this right at the time of the application or within
11 30 days after the inception date of an individual policy described
12 in subdivision ~~(e)~~, (f), and at least every two years thereafter. The
13 notification described in this subdivision shall instruct the
14 policyholder how to request the designation and how to replace
15 or delete a designee. If a policyholder initiates contact with the
16 insurer after the insurer has provided notice and the insurer
17 complies with the policyholder’s request to establish or change
18 the additional person to receive the notice described in this section,
19 the insurer shall not be required to maintain additional verification.

20 (2) Comply with subdivision (b).

21 (b) An insurer that adopts the following procedure shall be
22 deemed to have complied with subdivision (a).

23 (1) Unless an applicant for insurance has been provided notice
24 of the right set forth in this section prior to inception of the policy,

1 the insurer shall provide the policyholder, within 30 days after the
2 inception date of an individual policy described in subdivision ~~(e)~~,
3 ~~(f)~~, with notice of the right to designate one person, in addition to
4 the policyholder, to receive notice of lapse, termination, expiration,
5 nonrenewal, or cancellation of a policy for nonpayment of
6 premium. The insurer shall provide each applicant or policyholder
7 with notice in writing or by electronic transmission pursuant to
8 Section 38.5 of the opportunity to make the designation. That
9 notice shall instruct the applicant or policyholder on how he or
10 she is to submit the ~~name, address, and telephone number~~ *name*
11 *and address* of one person, in addition to the applicant or
12 policyholder, who is to receive notice of lapse, termination,
13 expiration, nonrenewal, or cancellation of the policy for
14 nonpayment of premium.

15 (2) If after having been provided notice from the insurer of the
16 right to designate an individual to receive notice of lapse,
17 termination, expiration, nonrenewal, or cancellation for
18 nonpayment of premium, the applicant or policyholder fails to ~~take~~
19 ~~action pursuant to subdivision (a)~~ *designate an individual* within
20 30 days, the applicant or policyholder shall be conclusively
21 presumed to have declined the opportunity to exercise his or her
22 right at that time.

23 (3) Notwithstanding subparagraph (C) of paragraph (2) of
24 subdivision (a) of Section 791.13 or any other law, the insurer
25 shall retain and utilize as necessary the contact information
26 provided in the written designation for the lifetime of the policy,
27 and allow the policyholder to update the written designation if the
28 policyholder so requests.

29 ~~(4)~~

30 (c) (1) A policyholder retains the right to designate the one
31 additional person to receive notice of lapse, termination, expiration,
32 nonrenewal, or cancellation for nonpayment of premium at any
33 time, at the initiative of the policyholder, regardless of whether
34 the policyholder previously declined to exercise that right. At least
35 every two years, the insurer shall notify the policyholder in writing
36 or by electronic transmission pursuant to Section 38.5, of
37 whichever of the following applies:

38 (A) If a policyholder has previously provided a designation
39 pursuant to this subdivision, in writing or by electronic transmission
40 pursuant to Section 38.5, the right to change the prior designation

1 by replacing or deleting a person to receive notice of lapse,
2 termination, expiration, nonrenewal, or cancellation for
3 nonpayment of premium.

4 (B) If the policyholder has not previously designated a person
5 to receive the notice of lapse, termination, expiration, nonrenewal,
6 or cancellation for nonpayment of premium pursuant to this
7 subdivision, the right to designate a person to receive notice of
8 lapse, termination, expiration, nonrenewal, or cancellation for
9 nonpayment of premium.

10 (C)

11 (2) The notice requirements in subparagraphs (A) and (B) of
12 *paragraph (1)* may be provided to a policyholder in a single notice
13 and shall not require two separate notices.

14 (e)

15 (d) When a policyholder pays the premium for an insurance
16 policy through a payroll or pension deduction plan, the
17 requirements contained in paragraph (1) of subdivision (b) need
18 not be met until 60 days after the policyholder is no longer on that
19 deduction payment plan. The application form for an insurance
20 policy shall clearly indicate the deduction payment plan selected
21 by the applicant.

22 (d)

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

36 (e)

37 (f) This section applies only to policies of private passenger
38 automobile insurance that provide coverage for six months or
39 longer, policies of residential property insurance as described in
40 subdivision (a) of Section 10087 that take effect or that are renewed

1 after the effective date of this section, and policies of individual
2 disability income insurance as described in subdivision (i) of
3 Section 799.01.

4 ~~(f)~~

5 (g) This section applies to policies that are issued and take effect
6 or that are renewed on or after January 1, 2016.

7 ~~(g)~~

8 (h) An individual designated by a policyholder pursuant to this
9 section to receive notice of lapse, termination, expiration,
10 nonrenewal, or cancellation of the policy for nonpayment of
11 premium does not have any rights, whether as an additional insured
12 or otherwise, to any benefits under the policy, other than the right
13 to receive notice as provided by this section.

14 ~~(h)~~

15 (i) This section shall become operative on January 1, 2016.

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