

Assembly Bill No. 1804

CHAPTER 380

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

[Approved by Governor September 17, 2014. Filed with
Secretary of State September 17, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1804, 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 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.

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

SECTION 1. Section 396 is added to the Insurance Code, to read:

396. (a) An insurer shall do either of the following:

(1) Maintain a verifiable process that allows a policyholder to designate in writing or by electronic transmission pursuant to Section 38.5 one additional person to receive notice of lapse, termination, expiration, nonrenewal, or cancellation of a policy for nonpayment of premium. The insurer shall notify the policyholder in writing or by electronic transmission pursuant to Section 38.5 of this right at the time of the application or within 30 days after the inception date of an individual policy described in

subdivision (f), and at least every two years thereafter. The notification described in this subdivision shall instruct the policyholder how to request the designation and how to replace or delete a designee. If a policyholder initiates contact with the insurer after the insurer has provided notice and the insurer complies with the policyholder's request to establish or change the additional person to receive the notice described in this section, the insurer shall not be required to maintain additional verification.

(2) Comply with subdivision (b).

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

(1) Unless an applicant for insurance has been provided notice of the right set forth in this section prior to inception of the policy, the insurer shall provide the policyholder, within 30 days after the inception date of an individual policy described in subdivision (f), with notice of the right to designate one person, in addition to the policyholder, to receive notice of lapse, termination, expiration, nonrenewal, or cancellation of a policy for nonpayment of premium. The insurer shall provide each applicant or policyholder with notice in writing or by electronic transmission pursuant to Section 38.5 of the opportunity to make the designation. That notice shall instruct the applicant or policyholder on how he or she is to submit the name and address of one person, in addition to the applicant or policyholder, who is to receive notice of lapse, termination, expiration, nonrenewal, or cancellation of the policy for nonpayment of premium.

(2) If after having been provided notice from the insurer of the right to designate an individual to receive notice of lapse, termination, expiration, nonrenewal, or cancellation for nonpayment of premium, the applicant or policyholder fails to designate an individual within 30 days, the applicant or policyholder shall be conclusively presumed to have declined the opportunity to exercise his or her right at that time.

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

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

(A) If a policyholder has previously provided a designation pursuant to this subdivision, in writing or by electronic transmission pursuant to Section 38.5, the right to change the prior designation by replacing or deleting a person to receive notice of lapse, termination, expiration, nonrenewal, or cancellation for nonpayment of premium.

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

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

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

(e) An insurance policy shall not lapse or be 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 to the individual designated pursuant to subdivision (a) or (b) at the address provided by the policyholder for purposes of receiving the notice of lapse, termination, expiration, nonrenewal, or cancellation for nonpayment of premium. Notwithstanding any other law, notice shall be given by first-class United States mail, postage prepaid, within 10 days after the premium is due and unpaid. This subdivision does not modify requirements for notice to the policyholder of lapse, termination, expiration, nonrenewal, or cancellation set forth in other sections of this code.

(f) This section applies only to policies of private passenger automobile insurance that provide coverage for six months or longer, policies of residential property insurance as described in subdivision (a) of Section 10087 that take effect or that are renewed after the effective date of this section, and policies of individual disability income insurance as described in subdivision (i) of Section 799.01.

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

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

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