

AMENDED IN SENATE AUGUST 2, 2016

AMENDED IN SENATE JULY 6, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 459

Introduced by Assembly Member Daly

February 23, 2015

An act to add and repeal Section 10110.15 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 459, as amended, Daly. Insurance: insurable interest: declaratory relief.

Existing law provides that an insurable interest, with reference to life and disability insurance, is an interest based upon a reasonable expectation of pecuniary advantage through the continued life, health, or bodily safety of another person and consequent loss by reason of that person's death or disability or a substantial interest engendered by love and affection in the case of individuals closely related by blood or law. An individual has an unlimited insurable interest in his or her own life, health, and bodily safety and may lawfully take out a policy of insurance on his or her own life, health, or bodily safety and have the policy made payable to whomsoever he or she pleases, regardless of whether the beneficiary designated has an insurable interest.

Existing law, effective January 1, 2010, provides that any device, scheme, or artifice designed to give the appearance of an insurable interest when there is no insurable interest, violates the insurable interest laws.

This bill would authorize an owner of record of a life insurance policy, who believes in good faith that the insurer may challenge the policy for lack of an insurable interest, to bring an action, on or before January 1, 2017, 2018, for declaratory relief seeking a court order declaring the policy to have a valid insurable interest. The bill would limit the applicability of these provisions to policies issued for delivery in California prior to January 1, 2010, that have a death benefit equal to or greater than \$1,000,000, and when the owner of record was the owner of record on the effective date of these provisions. The bill would also prohibit an owner of record *or the insurer* from commencing an action against the named insured *or a relative of the insured* of the policy seeking damages or any other remedy if a court enters a judgment in an action brought pursuant to these provisions declaring a life insurance policy ~~invalid~~ void on the basis that the policy was issued to a person who lacked an insurable interest. These provisions would remain in effect only until January 1, 2017, 2018, and would then be repealed.

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 10110.15 is added to the Insurance Code,
2 to read:
3 10110.15. (a) On or before January 1, 2017, 2018, the owner
4 of record of a life insurance policy, who believes in good faith that
5 the insurer may challenge the policy for lack of insurable interest,
6 may bring an action for declaratory relief seeking a court order
7 declaring the policy to have a valid insurable interest.
8 (b) The right of the owner of record of a life insurance policy
9 to bring an action for declaratory relief under this section applies
10 only to policies issued for delivery in California prior to January
11 1, 2010, and that have a death benefit equal to or greater than one
12 million dollars (\$1,000,000). Only the owner of record of a life
13 insurance policy on the effective date of this section may bring a
14 declaratory judgment action under this section.
15 (c) Nothing in this section shall be construed as limiting an
16 insurer's existing right to seek declaratory or other relief regarding
17 the validity of a life insurance policy.
18 (d) If a court enters a judgment in an action brought pursuant
19 to this section that declares a life insurance policy ~~invalid~~ void on

1 the basis that the policy was issued to a person who lacked an
2 insurable interest, the owner of record *or the insurer* shall not
3 commence any action against the named insured *or a relative of*
4 *the insured* of that life insurance policy seeking damages or any
5 other remedy resulting from the ~~invalidity of the policy~~. *policy*
6 *being declared void.*

7 (e) For purposes of this section, a policy is issued for delivery
8 in the state of residence of the policy's owner of record on the date
9 of issue.

10 (f) For purposes of this section, "owner of record" means the
11 owner of a life insurance policy as recorded on the books and
12 records of the insurer that issued or assumed the policy.

13 (g) This section shall remain in effect only until January 1, 2017,
14 2018, and as of that date is repealed.