

Assembly Bill No. 565

Passed the Assembly August 23, 2016

Chief Clerk of the Assembly

Passed the Senate August 16, 2016

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 10203.4 and 10271.1 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 565, Cooley. Group life insurance: required provisions.

Existing law provides for the regulation of specified insurance products, including group life insurance, by the Insurance Commissioner. Existing law provides that insurance under a group life insurance policy may be extended to insure the dependents of each insured employee under the group policy, as specified. Existing law defines a dependent for these purposes as including the employee's spouse and all children from birth until 26 years of age, or a child 26 years of age or older who is both incapable of self-sustaining employment by reason of intellectual disability or physical handicap and chiefly dependent upon the employee for support and maintenance, as specified.

This bill would clarify that for dependent children over the age of majority the group policyholder would be authorized to elect coverage at age variations up to the limiting age.

Existing law defines a waiver of premium benefit or a waiver of monthly deduction benefit under a life insurance contract as a supplemental benefit that operates to safeguard a life insurance contract against lapse when the insured becomes totally disabled, as defined by the supplemental benefit, and continues until the end of the insured's disability or the period specified by the supplemental benefit, consistent with specified restrictions. Existing law requires, if the insured's total disability begins before the insured attains 60 years of age, the insurer to waive all premiums or monthly deductions due for the period that the insured continues to be totally disabled. Existing law requires, if the insured's total disability begins when the insured is 60 years of age or older, the insurer to waive all premiums or monthly deductions due for the period that the insured continues to be totally disabled up to 65 years of age.

This bill would require an insurer, for an insured who becomes totally disabled before attaining 60 years of age and is covered by

a group life insurance policy that includes a supplemental benefit, to waive all premiums or monthly deductions due for the period of total disability up to the time the insured attains 65 years of age. The bill would also permit an insurer to collect premiums or monthly deductions from an insured who becomes totally disabled on or after 60 years of age and is covered by a group life insurance policy that includes a supplemental benefit. The bill would require an insurer offering a renewal for a group life insurance policy issued prior to January 1, 2017, that contains a supplemental benefit to offer the employer a continuation of the in-force supplemental benefit, and would authorize the insurer to concurrently offer the group policyholder the option to change the supplemental benefit to either waive or collect premiums or monthly deductions as described above.

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

SECTION 1. Section 10203.4 of the Insurance Code is amended to read:

10203.4. (a) Insurance under a group life insurance policy issued pursuant to Sections 10202, 10202.8, 10203, 10203.1, and 10203.7 may be extended to insure the dependents, or any class or classes thereof, of each insured employee who so elects, in amounts in accordance with some plan that precludes individual selection and that shall not be in excess of 100 percent of the insurance on the life of the insured employee. For dependent children over the age of majority, the group policyholder may elect coverage at age variations up to the limiting age.

(b) “Dependent” includes the member’s spouse or a minor child, as well as a child older than the age of majority up to a maximum of 26 years of age, or any child over the age of majority who is both incapable of self-sustaining employment by reason of an intellectual disability or physical handicap and chiefly dependent upon the employee for support and maintenance if proof of the incapacity and dependency is furnished to the insurer by the employee within 31 days of the child’s attainment of the limiting age and subsequently as may be required by the insurer, but not more frequently than annually after the two-year period following the child’s attainment of the limiting age.

(c) The premiums for the insurance on the dependents may be paid by the employer, the employee, or the employer and the employee jointly.

SEC. 2. Section 10271.1 of the Insurance Code is amended to read:

10271.1. (a) (1) Supplemental benefits that operate to safeguard life insurance contracts against lapse are defined as a waiver of premium benefit or a waiver of monthly deduction benefit, as applicable, in which the insurer waives the premium or monthly deduction for a life insurance contract when the insured becomes totally disabled, as defined by the supplemental benefit, and where the waiver continues until the end of the insured's disability, or for the period specified by the supplemental benefit, consistent with paragraph (5).

(2) For purposes of this subdivision, total disability shall not be less favorable to the insured than the following:

(A) During the first 24 months of total disability, the insured is unable to perform with reasonable continuity the substantial and material duties of his or her job due to sickness or bodily injury.

(B) After the first 24 months of total disability, the insured, due to sickness or bodily injury, is unable to engage with reasonable continuity in any other job in which he or she could reasonably be expected to perform satisfactorily in light of his or her age, education, training, experience, station in life, or physical and mental capacity.

(3) The definition of total disability may also include presumptive total disability, such as the insured's total and permanent loss of sight of both eyes, hearing of both ears, speech, the use of both hands, both feet, or one hand and one foot.

(4) The insurer may require total disability to continue for an uninterrupted period of time specified by the supplemental benefit, or the insurer may allow separate periods of disability to be combined.

(5) The waiver of premium or monthly deduction benefit shall continue for the period specified by the supplemental benefit, but shall not be less favorable to the insured than the following:

(A) If the insured's total disability begins before the insured attains 60 years of age, the insurer shall waive all premiums or monthly deductions due for the period that the insured continues to be totally disabled, except as follows:

(i) For group life insurance policies, if the insured's total disability begins before the insured attains 60 years of age, the insurer shall waive all premiums or monthly deductions due for the period of total disability up to 65 years of age. Nothing in this subdivision shall preclude the insurer from extending a supplemental benefit for longer periods.

(ii) When a renewal is offered for a group life insurance policy that was issued prior to January 1, 2017, and contains a supplemental benefit described in this subparagraph, the insurer shall offer to renew the policy with a continuation of the in-force supplemental benefit, and may concurrently offer the group policyholder the option to change the supplemental benefit as described in clause (i).

(B) If the insured's total disability begins after the age specified in subparagraph (A), the insurer shall waive all premiums or monthly deductions due for the period that the insured continues to be totally disabled up to 65 years of age, except as follows:

(i) For group life insurance policies, if the insured's total disability begins on or after the date the insured attains 60 years of age, the insurer is not required to waive premiums or monthly deductions. Nothing in this subdivision shall preclude the insurer from extending a supplemental benefit for longer periods.

(ii) When a renewal is offered for a group life insurance policy that was issued prior to January 1, 2017, and contains a supplemental benefit described in this subparagraph, the insurer shall offer to renew the policy with a continuation of the in-force supplemental benefit, and may concurrently offer the group policyholder the option to change the supplemental benefit as described in clause (i).

(6) In addition to the permissible exclusions listed in subdivision (g) of Section 10271, the insurer may exclude a total disability occurring after the policy anniversary or supplemental contract anniversary, as applicable and as defined by the supplemental benefit, on which the insured attains a specified age of no less than 65 years.

(b) "Special surrender benefit" is defined as a "waiver of surrender charge benefit" wherein the insurer waives the surrender charge usually charged for a withdrawal of funds from the cash value of a life insurance contract or the account value of an annuity

contract if the owner, insured, or annuitant, as applicable, meets any of the following criteria:

(1) Develops any medical condition where the owner's, insured's, or annuitant's life expectancy is expected to be less than or equal to a limited period of time that shall not be restricted to a period of less than 12 months or greater than 24 months.

(2) Is receiving, as prescribed by a physician, registered nurse, or licensed social worker, home care or community-based services, as defined in subdivision (a) of Section 10232.9, or is confined in a skilled nursing facility, convalescent nursing home, or extended care facility, which shall not be defined more restrictively than as in the Medicare program, or is confined in a residential care facility or residential care facility for the elderly, as defined in the Health and Safety Code. Out-of-state providers of services shall be defined as comparable in licensure and staffing requirements to California providers.

(3) Has any medical condition that would, in the absence of treatment, result in death within a limited period of time, as defined by the supplemental benefit, but that shall not be restricted to a period of less than six months.

(4) Is totally disabled, as follows:

(A) During the first 24 months of total disability, the owner, insured, or annuitant, as applicable, is unable to perform with reasonable continuity the substantial and material duties of his or her job due to sickness or bodily injury.

(B) After the first 24 months of total disability, the owner, insured, or annuitant, as applicable, due to sickness or bodily injury, is unable to engage with reasonable continuity in any other job in which he or she could reasonably be expected to perform satisfactorily in light of his or her age, education, training, experience, station in life, or physical and mental capacity.

(C) The definition of total disability may also include presumptive total disability, such as the insured's total and permanent loss of sight of both eyes, hearing of both ears, speech, the use of both hands, both feet, or one hand and one foot.

(D) The insurer may require the total disability to continue for an uninterrupted period of time specified by the supplemental benefit, or the insurer may allow separate periods of disability to be combined.

(5) Has a chronic illness as defined pursuant to either subparagraph (A) or (B):

(A) Either of the following:

(i) Impairment in performing two out of seven activities of daily living, as set forth in subdivisions (a) and (g) of Section 10232.8, meaning the insured needs human assistance, or needs continual substantial supervision.

(ii) The insured has an impairment of cognitive ability, meaning a deterioration or loss of intellectual capacity due to mental illness or disease, including Alzheimer’s disease or related illnesses, that requires continual supervision to protect oneself or others.

(B) Either of the following:

(i) Impairment in performing two out of six activities of daily living as described in subdivisions (b), (d), (e), and (f) of Section 10232.8 due to a loss of functional capacity to perform the activity.

(ii) Impairment of cognitive ability, meaning the insured needs substantial supervision due to severe cognitive impairment, as described in subdivisions (b), (d), and (e) of Section 10232.8.

(6) Has become involuntarily or voluntarily unemployed.

(c) The term “supplemental benefit” means a rider to or provision in a life insurance policy, certificate, or annuity contract that provides a benefit as set forth in subdivision (a) of Section 10271.

Approved _____, 2016

Governor