

AMENDED IN SENATE AUGUST 19, 1996

AMENDED IN SENATE JULY 10, 1996

AMENDED IN SENATE JUNE 27, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 293

Introduced by Assembly Member Hoge

February 7, 1995

An act to amend Sections 10113.6, and 10164.2 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 293, as amended, Hoge. Life and disability insurance.

Existing law requires an insurer to deliver an insurance policy to the owner in order to start the period running during which the owner may exercise statutory rights to return or cancel the policy. Existing law provides that a policy is deemed to have been received 6 months after issuance if the insured has paid premiums.

This bill would provide that the policy is deemed received 6 months after issuance if premiums have been paid.

Existing law establishes time periods for the cancellation or surrender of individual life insurance by the insured or owner.

This bill would make those provisions applicable only to the surrender by the *policy* owner, and would make ~~related~~ *other changes to procedures governing the surrender of individual life insurance policies.*

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 10113.6 of the Insurance Code is
 2 amended to read:
 3 10113.6. (a) An insurer that is required to deliver a
 4 life insurance policy to the owner of the policy in order
 5 to start the period running during which the owner may
 6 exercise any statutory right to return a policy for
 7 cancellation, shall accomplish the delivery by:
 8 (1) Registered or certified mail.
 9 (2) Personal delivery, with a signed, written receipt of
 10 delivery.
 11 (3) First-class mail, with a signed, written receipt of
 12 delivery.
 13 (4) Other reasonable means, as determined by the
 14 commissioner.
 15 (b) If an insurer does not deliver a policy by the means
 16 set forth in subdivision (a), the burden of proof shall be
 17 on the insurer to establish that the policy was delivered,
 18 in the event of a dispute with the owner of the policy.
 19 (c) Notwithstanding subdivisions (a) and (b), a policy
 20 shall be deemed to have been received six months after
 21 the date of issuance if premiums have been paid.
 22 (d) An employer or corporate policy owner, or the
 23 plan trustee of an employer or corporate policy owner
 24 who controls 100 or more policies, shall have the option
 25 to request in writing from an insurer the delivery of a
 26 sample policy with one or more census pages in a form
 27 satisfactory to the employer, corporate policy owner, or
 28 plan trustee, as an alternative to the delivery
 29 requirements of subdivision (a). However, delivery of
 30 the sample policy and census page as provided in this
 31 subdivision shall be subject to the provisions of
 32 subdivisions (a) and (b). The insurer shall deliver all of
 33 the policies listed on the census page to the employer,
 34 corporate policy owner, or plan trustee within 30 days of



1 demand for delivery. The delivery of the actual policies
2 shall not institute a new “free look” period.

3 SEC. 2. Section 10164.2 of the Insurance Code is
4 amended to read:

5 10164.2. (a) For a policy of individual life insurance
6 that is surrendered by the *policy* owner, the insurer shall
7 return to the owner all moneys due in relation to that
8 policy as expeditiously as possible, but in no event more
9 than 45 days from the date the ~~insurer is notified that the~~
10 ~~insured or owner has canceled the policy and has~~
11 ~~received the claims forms and other elements required to~~
12 ~~complete the transaction~~ *surrender is effective as*
13 *provided in subdivision (b)*. However, this section does
14 not supersede the provisions of subdivision (f) of Section
15 10160 empowering an insurer to defer payment of cash
16 surrender value for up to six months, to the extent that
17 deferral is necessary to assure the solvency of the insurer.

18 (b) ~~Unless a later date is required by the policy, but~~
19 ~~no later than 45 days after either a written request is~~
20 ~~received or an oral request is made by the policyholder~~
21 *permitted by the policy (but not later than 45 days after*
22 *the request is received) is requested by the policy owner,*
23 a surrender of a life insurance policy is effective on the
24 date the request is received, if the request is made to the
25 insurer or servicing agent authorized by the insurer in
26 writing to receive these requests on the insurer’s behalf
27 and contains the elements specified by the insurer in the
28 contract. The insurer may require the request be in
29 writing. The insurer may require ~~any~~ *some* or all of the
30 following elements, but shall not require more:

31 ~~(1) An unequivocal request for surrender.~~

32 (1) *A statement that makes it clear that the policy*
33 *owner intends to surrender, in whole or in part, the*
34 *contract in question.*

35 (2) The policy number of the policy to be surrendered.

36 (3) The name of the insured on the policy to be
37 surrendered.

38 (4) The signature of the owner of the policy and, if
39 required by the policy or by a legally binding document
40 of which the insurer has actual notice, the signature of a



1 collateral assignee, irrevocable beneficiary, or other
2 person having an interest in the policy through the legally
3 binding document.

4 (5) Either the policy itself, or, in lieu of the policy, a
5 statement that the policy has been lost or destroyed.

6 (c) When the policy owner requests of an insurer or
7 servicing agent information about surrendering a policy,
8 the insurer or servicing agent shall provide as
9 expeditiously as possible, a written notice ~~containing~~
10 *setting forth either the requirements of this section or the*
11 *insurer's requirements, if less.*

12 (d) A policy subject to this section issued on or after
13 January 1, 1997, shall *either* include language, which may
14 be included by endorsement, *or be accompanied by a*
15 *notice* setting forth the elements necessary to surrender
16 the policy as required by this section *or by the insurer, if*
17 *less.*

18 (e) Nothing in this section shall be construed to limit
19 an existing statutory right to return a policy for surrender,
20 nor shall it limit a contractual provision that provides a
21 greater right or option to the policy owner.

22 (f) For *a written request, for* purposes of this section,
23 “received” means the first day that the written notice is
24 delivered to the address of the insurer or servicing agent
25 authorized by the insurer in writing to receive these
26 requests on the insurer’s behalf. An insurer or servicing
27 agent shall maintain a procedure for ensuring that
28 requests for surrender are logged or stamped on the date
29 received, and not on a later date due to the insurer’s or
30 servicing agent’s internal routing or delivery procedures.
31 If this procedure is not maintained, it shall be conclusively
32 presumed that a request was received on the delivery
33 data shown *on an express, certified, or registered mail*
34 *receipt form the United States Postal Service or by a*
35 *commercial carrier, if delivered by commercial carrier,*
36 *or the earlier of (1) two business days after the request*
37 *was postmarked by the United States Postal Service or (2)*
38 *one business day before the date stamped received by the*
39 *insurer or servicing agent. For purposes of this*
40 *subdivision, “business day” has the meaning set forth in*



1 subdivision (g) of Section 1215. Postmarks generated by
2 postage meters not located at an office of the United
3 States Postal Service are to be disregarded.

4 ~~(g) For purposes of this section, “unequivocal request~~
5 ~~for surrender” means a written statement that makes it~~
6 ~~clear that the policy owner intends to surrender, in whole~~
7 ~~or in part, the contract in question.~~

8 ~~(h)~~

9 (g) This section does not alter a contractual provision
10 governing calculation of cash or surrender or other
11 values. The effective date established by subdivision (b)
12 is intended to establish a date certain on which a
13 policyholder may rely in determining when the 45-day
14 period specified in subdivision (a) begins to run.
15 Subdivision (b) is not intended to advance a date
16 otherwise provided by contract that is triggered by a
17 request to surrender. An insurer may request information
18 in addition to that listed in subdivision (b). However, an
19 insurer’s request for additional information does not
20 delay an effective date established by a policyholder’s
21 compliance with subdivision (b).

