AMENDED IN SENATE APRIL 23, 2009

AMENDED IN SENATE APRIL 2, 2009

SENATE BILL No. 397

Introduced by Senator Calderon

February 26, 2009

An act to amend Sections 789.10 and 10127.7 of the Insurance Code, relating to life insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 397, as amended, Calderon. Life insurance.

Existing law regulates the sale of life insurance to seniors, including annuities, as specified. Existing law requires a person who meets with a senior in the senior's home regarding the sale of life insurance to deliver a notice in writing to the senior no less than 24 hours prior to that individual's meeting, and to abide by other restrictions regarding contacting the senior in the senior's home.

This bill would specify that the above *notice could be provided at the time of the meeting in the senior's home and that the other* provisions do not apply ~~to~~ *if the meeting concerns* the sale of life insurance designated by the purchaser as payment for funeral and burial expenses ~~if~~, the life insurance policy has an initial face amount of $15,000 or less ~~and~~, *the policy* provides a "free look" period in which the purchaser has 60 days to cancel the policy and be refunded payments made, *and the seller is licensed, as specified*. *The bill would require the issuer of a policy covered by the above provisions to provide a written notice of the purchase and the 60-day right of cancellation to the senior and certain other persons, except as specified.*

Existing law provides that life insurance policies with a face value of less than $10,000, issued after July 1, 1974, shall contain a notice permitting the return of the policy within a period of time designated in the notice, which may not be less than 10 or more than 30 days. *Existing law requires that, if the policy is returned, all premiums paid and any policy fee paid for the policy be refunded to the owner.*

This bill would provide that a life insurance policy with a face value of $15,000 or less, issued after January 1, 2010, shall contain a notice permitting the return of the policy within 60 days. *The bill would require that a refund of premiums and any policy fee be made not later than 30 days after the date that the insurer is notified that the insured has canceled the policy.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

SECTION 1. Section 789.10 of the Insurance Code is amended to read:

789.10. (a) This section applies to the sale, offering for sale, or generation of leads for the sale of life insurance, including annuities, to senior insureds or prospective insureds by any person.

(b) ~~Any~~ *Except as provided in subdivision (i), any* person who meets with a senior in the senior's home is required to deliver a notice in writing to the senior no less than 24 hours prior to that individual's initial meeting in the senior's home. If the senior has an existing insurance relationship with an agent and requests a meeting with the agent in the senior's home the same day, a notice shall be delivered to the senior prior to the meeting. The notice shall be in substantially the following form, with the appropriate information inserted, in 14-point type:

"(1) During this visit or a followup visit, you will be given a sales presentation on the following [indicate all that apply]:

( ) Life insurance, including annuities

( ) Other insurance products [specify]: ________________.

(2) You have the right to have other persons present at the meeting, including family members, financial advisors or attorneys.

(3) You have the right to end the meeting at any time.

(4) You have the right to contact the Department of Insurance for information, or to file a complaint. [The notice shall include the consumer assistance telephone numbers at the department]

(5) The following individuals will be coming to your home: [list all attendees, and insurance license information, if applicable]"

(c) Upon contacting the senior in the senior's home, the person shall, before making any statement other than a greeting, or asking the senior any other questions, state that the purpose of the contact is to talk about insurance, or to gather information for a followup visit to sell insurance, if that is the case, and state all of the following information:

(1) The name and titles of all persons arriving at the senior's home.

(2) The name of the insurer represented by the person, if known.

(d) Each person attending a meeting with a senior shall provide the senior with a business card or other written identification stating the person's name, business address, telephone number, and any insurance license number.

(e) The persons attending a meeting with a senior shall end all discussions and leave the home of the senior immediately after being asked to leave by the senior.

(f) A person may not solicit a sale or order for the sale of an annuity or life insurance policy at the residence of a senior, in person or by telephone, by using any plan, scheme, or ruse that misrepresents the true status or mission of the contact.

(g) This section shall not apply to the sale of life insurance *policies of the type described in subdivision (c) of Section 1676 that are* designated by the purchaser as payment for funeral and burial expenses if the life insurance policy meets both of the following:

(1) Has an initial face amount of fifteen thousand dollars ($15,000) or less.

~~(i)~~

(2) Provides a "free look" period in which the purchaser has 60 days to cancel the policy and be refunded payments made to the insurer prior to the cancellation of the policy.

(h) (1) Within 14 days of the purchase of a policy covered by this section, the issuer shall provide by first-class mail written notice of the purchase and the 60-day right of cancellation to the senior, any family member designated by the senior, and any financial, estate planning, or other advisor of the senior's choosing at addresses provided by the senior. The notice shall include all of the following:

(A) Information on the right of cancellation.

(B) A form suitable for the senior's use in exercising that right.

(C) Information on how to contact the department for information or to file a complaint, including the telephone number of the department's customer assistance office.

(2) The department may adopt, by regulation, a standardized form for use in complying with the requirements of paragraph (1).

(i) The notice requirement in subdivision (b) shall be deemed satisfied if both of the following requirements are met:

(A) The notice was provided to the prospective purchaser by a licensee subject to subdivision (c) of Section 1676 at the time of the meeting in the prospective purchaser's home regarding the purchase of funeral and burial expense policies.

(B) The licensee retains in his or her files a copy of the notice signed by the purchaser.

SEC. 2. Section 10127.7 of the Insurance Code is amended to read:

10127.7. Every policy of individual life insurance with an initial face value of fifteen thousand dollars ($15,000) or less that is delivered or issued for delivery in this state on and after January 1, 2010, shall have printed thereon or attached thereto a notice stating that, after receipt of the policy by the owner, the policy may be returned by the owner for cancellation by delivering it or mailing it to the insurer or to the agent through whom it was purchased. The period of time set forth by the insurer for return of the policy by the insured shall be clearly stated on the notice and this period shall be not less than 60 days. The insured may return the policy to the insurer at any time during the period specified in the notice. This delivery or mailing of the policy by the owner shall void the policy from the beginning, and the parties shall be in the same position as if no policy or contract had been issued. All premiums paid and any policy fee paid for the policy shall be refunded to the owner *not later than 30 days after the date that the insurer is notified that the insured has canceled the policy*.

This section applies to all policies issued on or after January 1, 2010, and applies to any renewal thereof. All policies subject to this section which are in effect on January 1, 2010, shall be construed to be in compliance with this section, and any provision in a policy that is in conflict with this section shall be of no force or effect.

This section does not apply to individual life insurance policies issued in connection with a credit transaction or issued under a contractual policy change or conversion privilege provision contained in a policy.