

AMENDED IN ASSEMBLY JULY 9, 2009

AMENDED IN SENATE MAY 5, 2009

AMENDED IN SENATE APRIL 27, 2009

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 if the meeting concerns the sale of life insurance designated by the purchaser as payment for funeral and burial expenses, the life insurance policy has an initial face amount of \$15,000 or less, 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 one of these

policies exempted from the provisions requiring 24-hour advance notice and related requirements to provide a written notice of the purchase and the 60-day right of cancellation with specified content 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:

- 1 SECTION 1. Section 789.10 of the Insurance Code is amended
2 to read:
3 789.10. (a) This section applies to the sale, offering for sale,
4 or generation of leads for the sale of life insurance, including
5 annuities, to senior insureds or prospective insureds by any person.
6 (b) Except as provided in subdivision (i), any person who meets
7 with a senior in the senior's home is required to deliver a notice
8 in writing to the senior no less than 24 hours prior to that
9 individual's initial meeting in the senior's home. If the senior has
10 an existing insurance relationship with an agent and requests a
11 meeting with the agent in the senior's home the same day, a notice
12 shall be delivered to the senior prior to the meeting. The notice
13 shall be in substantially the following form, with the appropriate
14 information inserted, in 14-point type:
15 "(1) During this visit or a followup visit, you will be given a
16 sales presentation on the following [indicate all that apply]:
17 () Life insurance, including annuities
18 () Other insurance products [specify]: _____.

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

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

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

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

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

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

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

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

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

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

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

34 (1) Has an initial face amount of fifteen thousand dollars
35 (\$15,000) or less.

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

39 (h) (1) Within 14 days of the purchase of a policy exempt from
40 application of this section pursuant to subdivision (g), the issuer

1 shall provide by first-class mail written notice of the purchase and
2 the 60-day right of cancellation to the senior, any family member
3 designated by the senior, and any financial, estate planning, or
4 other advisor of the senior's choosing at addresses provided by
5 the senior. The notice shall include all of the following:

6 (A) Information on the right of cancellation.

7 (B) A statement that the recipient of the notice is authorized to
8 call the insurer to inquire about the policy on behalf of the
9 policyholder.

10 (C) A form suitable for the senior's use in exercising ~~that right.~~
11 *the right to cancel the policy.*

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

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

17 (i) The notice requirement in subdivision (b) shall be deemed
18 satisfied with respect to a policy exempt from application of this
19 section pursuant to subdivision (g) if both of the following
20 requirements are met:

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

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

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

29 10127.7. Every policy of individual life insurance with an
30 initial face value of fifteen thousand dollars (\$15,000) or less that
31 is delivered or issued for delivery in this state on and after January
32 1, 2010, shall have printed thereon or attached thereto a notice
33 stating that, after receipt of the policy by the owner, the policy
34 may be returned by the owner for cancellation by delivering it or
35 mailing it to the insurer or to the agent through whom it was
36 purchased. The period of time set forth by the insurer for return
37 of the policy by the insured shall be clearly stated on the notice
38 and this period shall be not less than 60 days. The insured may
39 return the policy to the insurer at any time during the period
40 specified in the notice. This delivery or mailing of the policy by

1 the owner shall void the policy from the beginning, and the parties
2 shall be in the same position as if no policy or contract had been
3 issued. All premiums paid and any policy fee paid for the policy
4 shall be refunded to the owner not later than 30 days after the date
5 that the insurer is notified that the insured has canceled the policy.

6 This section applies to all policies issued on or after January 1,
7 2010, and applies to any renewal thereof. All policies subject to
8 this section which are in effect on January 1, 2010, shall be
9 construed to be in compliance with this section, and any provision
10 in a policy that is in conflict with this section shall be of no force
11 or effect.

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