

## GOVERNOR JERRY BROWN SIGNS LAW CHANGING LAPSE REQUIREMENTS FOR LIFE INSURANCE POLICIES

Insurance Commissioner Dave Jones last week announced that Governor Jerry Brown has signed AB 1747, authored by Assembly Member Mike Feuer (D-Los Angeles). The bill was strongly supported by Commissioner Jones and the California Department of Insurance and provides important consumer safeguards for life insurance policyholders. AB 1747, which will be effective January 1, 2013, adds new Sections 10113.71 and 10113.72 to the Insurance Code and will apply to every individual and group life insurance policy issued or delivered in California after January 1, 2013.

AB 1747 will require that every life insurance policy issued or delivered in this state contain a provision for a grace period of not less than 60 days from the premium due date and that the policy remains in force during the 60-day grace period. The law will also require an insurer to give the applicant for an individual life insurance policy the right to designate at least one person, in addition to the applicant, to receive notice of lapse or termination of a policy for nonpayment of premium. The law will require an insurer to provide each applicant with a form, as specified, to make the designation and to notify the policy owner annually of the right to change the designation. The law will also prohibit a notice of pending lapse and termination from being effective unless mailed by the insurer to the named policy owner, a named designee for an individual life insurance policy, and a known assignee or other person having an interest in the individual life insurance policy at least 30 days prior to the effective date of termination if termination is for nonpayment of premium.

The new statutes will read as follows:

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

**SECTION 1. Section 10113.71 is added to the Insurance Code, to read:**

10113.71. (a) Every life insurance policy issued or delivered in this state shall contain a provision for a grace period of not less than 60 days from the premium due date. The 60-day grace period shall not run concurrently with the period of paid coverage. The provision shall provide that the policy shall remain in force during the grace period.

(b) (1) A notice of pending lapse and termination of a life insurance policy shall not be effective unless mailed by the insurer to the named policy owner, a designee named pursuant to Section 10113.72 for an individual life insurance policy, and a known assignee or other person having an interest in the individual life insurance policy, at least 30 days prior to the effective

date of termination if termination is for nonpayment of premium.

(2) This subdivision shall not apply to nonrenewal.

(3) Notice shall be given to the policy owner and to the designee by first-class United States mail within 30 days after a premium is due and unpaid. However, notices made to assignees pursuant to this section may be done electronically with consent of the assignee.

(c) For purposes of this section, a life insurance policy includes, but is not limited to, an individual life insurance policy and a group life insurance policy, except where otherwise provided.

SEC. 2. Section 10113.72 is added to the Insurance Code, to read:

10113.72. (a) An individual life insurance policy shall not be issued or delivered in this state until the applicant has been given the right to designate at least one person, in addition to the applicant, to receive notice of lapse or termination of a policy for nonpayment of premium. The insurer shall provide each applicant with a form to make the designation. That form shall provide the opportunity for the applicant to submit the name, address, and telephone number of at least one person, in addition to the applicant, who is to receive notice of lapse or termination of the policy for nonpayment of premium.

(b) The insurer shall notify the policy owner annually of the right to change the written designation or designate one or more persons. The policy owner may change the designation more often if he or she chooses to do so.

(c) No individual life insurance policy shall lapse or be terminated for nonpayment of premium unless the insurer, at least 30 days prior to the effective date of the lapse or termination, gives notice to the policy owner and to the person or persons designated pursuant to subdivision (a), at the address provided by the policy owner for purposes of receiving notice of

lapse or termination. Notice shall be given by first-class United States mail within 30 days after a premium is due and unpaid.

**SEC. 3. Section 10173.2 of the Insurance Code is amended to read:**

10173.2. When a policy of life insurance is, after the effective date of this section, assigned in writing as security for an indebtedness, the insurer shall, in any case in which it has received written notice of the name and address of the assignee, mail to the assignee a written notice, postage prepaid and addressed to the assignee's address filed with the insurer, not less than 30 days prior to the final lapse of the policy, each time the policy owner has failed or refused to transmit a premium payment to the insurer before the commencement of the policy's grace period or before the notice is mailed. The insurer shall give that notice to the assignee in the proper case while the assignment remains in effect, unless the assignee has notified the insurer in writing that the notice is waived. The insurer shall be permitted to charge the policy owner directly or against the policy the reasonable cost of complying with this section, but in no event to exceed two dollars and fifty cents (\$2.50) for each notice.

As used in this section, "final lapse of the policy" means the date after which the policy will not be reinstated by the insurer without requiring evidence of insurability or written application.

As the Insurance Commissioner has noted, under existing law, individuals can easily lose the critical protection of life insurance if a single premium is accidentally missed, even if they have been paying premiums on time for many years. Furthermore, if an insured individual loses coverage and wants it reinstated, he or she may then have to undergo a new physical exam and be underwritten again, risking a significantly more expensive, possibly unaffordable premium if his or her health has changed in the years since purchasing the policy. Worse yet, they will not qualify for coverage at all under the insurers' standards in place for reinstating coverage because of health changes. Over the years, we have observed that insurers have improperly lapsed life insurance policies without complying with existing law and even in situations where they have complied with the law, insurance company agents have not properly notified/warned policyholders of the impending lapse. Our office has been involved in a significant amount of litigation with insurers and their agents over improper life insurance policy lapses (last week one of the cases settled for

just under \$500,000). We expect that this law will make significant strides in reducing the amount of litigation over this issue.