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INSURANCE CODE - INS

DIVISION 1. GENERAL RULES GOVERNING INSURANCE [100 - 1879.8] (*Division 1 enacted by Stats. 1935, Ch. 145.*)

PART 1. THE CONTRACT [100 - 679.75] (*Part 1 enacted by Stats. 1935, Ch. 145.*)

CHAPTER 4. The Policy [380 - 460] (*Chapter 4 enacted by Stats. 1935, Ch. 145.*)

ARTICLE 1. Definition and Scope [380 - 396] (*Article 1 enacted by Stats. 1935, Ch. 145.*)

380. The written instrument, in which a contract of insurance is set forth, is the policy.

(Enacted by Stats. 1935, Ch. 145.)

381. A policy shall specify:

- (a) The parties between whom the contract is made.
- (b) The property or life insured.
- (c) The interest of the insured in property insured, if he is not the absolute owner thereof.
- (d) The risks insured against.
- (e) The period during which the insurance is to continue.
- (f) Either:
 - (1) A statement of the premium, or
 - (2) If the insurance is of a character where the exact premium is only determinable upon the termination of the contract, a statement of the basis and rates upon which the final premium is to be determined and paid.

(Enacted by Stats. 1935, Ch. 145.)

381.1. (a) The information described in subdivision (b) shall be provided to the policyholder at the time of application for, or issuance of, a policy of automobile insurance, as defined in Section 660, and in each renewal notice sent prior to the renewal of the policy. However, information described in paragraphs (1) and (2) of subdivision (b) may be provided to the policyholder separately upon request. The information shall not be presented as an abbreviation or code unless a key to the abbreviations or codes used is also included.

(b) For each rated driver or vehicle, as applicable, the number of incidents or other relevant data that apply to each of the following categories:

- (1) Traffic convictions.
- (2) At-fault accidents (property damage or bodily injury).
- (3) Estimated annual mileage driven.
- (4) Years of driving experience.
- (5) Vehicle use (e.g., pleasure, commute, business).
- (6) ZIP Code of the location where the vehicle is garaged, if different from the mailing address of the policyholder.
- (7) Driver-related discounts applied.

(8) Vehicle-related discounts or surcharges applied.

(c) The disclosure of information required by this section may contain additional provisions that are not in conflict with, or derogation of, these provisions.

(d) Each insurer shall comply with this section no later than March 1, 2004.

(Added by Stats. 2003, Ch. 360, Sec. 1. Effective January 1, 2004.)

381.2. When a policy includes coverage for loss or damage to a specific item of personal property of the insured, which item is separately listed and described and on which item a separate amount of insurance is placed, the insurer shall compute any total loss of such item of personal property as being the amount of insurance placed on it. In the adjustment of a partial loss or damage to such item of covered property, the separately listed amount of insurance applying to the specific item shall be used as the value of the item prior to its partial loss or damage. If a different method is to be used in the computation of loss, the policy, and any application therefor, shall set forth, in type of prominent size, the actual method of such loss computation used by the insurer.

The provisions of this subdivision shall not apply to any property used for a business purpose or to any motor vehicle.

If there are two or more policies insuring the same property against the loss, the loss shall be prorated among the policies.

(Amended by Stats. 1974, Ch. 653.)

381.5. (a) Every policy issued, amended, delivered, or renewed in this state shall provide coverage for the registered domestic partner of an insured or policyholder that is equal to, and subject to the same terms and conditions as, the coverage provided to a spouse of an insured or policyholder. A policy may not offer or provide coverage for a registered domestic partner if it is not equal to the coverage provided for the spouse of an insured or policyholder. This subdivision applies to all forms of insurance regulated by this code.

(b) A policy subject to this section that is issued, amended, delivered, or renewed in this state on or after January 1, 2005, shall be deemed to provide coverage for registered domestic partners that is equal to the coverage provided to a spouse of an insured or policyholder.

(c) It is the intent of the Legislature that, for purposes of this section, "terms," "conditions," and "coverage" do not include instances of differential treatment of domestic partners and spouses under federal law.

(Added by Stats. 2004, Ch. 488, Sec. 3. Effective January 1, 2005.)

382. Covering notes may be issued to bind insurance temporarily pending the issuance of the policy. Within 90 days after issue of a covering note a policy shall be issued in lieu thereof, including within its terms the identical insurance bound under the covering note and premium therefor.

Covering notes may be extended or renewed beyond such 90 days with the written approval of the commissioner if the commissioner determines that such extension is not contrary to and is not for the purpose of violating any provision of this code. The commissioner may promulgate rules and regulations governing such extensions for the purpose of preventing such violations and may by such rules and regulations dispense with the requirement of written approval by him in the case of extensions in compliance with such rules and regulations.

(Amended by Stats. 1943, Ch. 872.)

382.5. A binder which is issued in accordance with this section shall be deemed an insurance policy for the purpose of proving that the insured has the insurance coverage specified in the binder.

(a) As used in this section, "binder" means a writing (1) which includes the name and address of the insured and any additional named insureds, mortgagees, or lienholders, a description of the property insured, if applicable, a description of the nature and amount of coverage and any special exclusions not contained in a standard policy, the identity of the insurer and the agent executing the binder, the effective date of coverage, the binder number or the policy number where applicable to a policy extension, and (2) which temporarily obligates the insurer to provide that insurance coverage pending issuance of the insurance policy. For purposes of this section, "binder" does not include, and this section does not apply to, any writing that conditionally or unconditionally obligates an insurer to provide (1) life or disability insurance or (2) insurance in the amount of one million dollars (\$1,000,000) or more.

(b) Except as superseded by the clear and express terms of the binder, a binder shall be deemed to include all of the usual terms of the policy as to which the binder was given, together with applicable endorsements as are designated in the binder.

(c) Except as otherwise provided in this subdivision, a binder shall be valid for the period specified therein not exceeding 90 days from the date of execution of the binder or, if not specified, for that period of 90 days. No binder shall remain valid on or after the date the insurance policy is issued with respect to which the binder was given. Expiration of coverage under a binder shall not be considered a cancellation or nonrenewal of a policy of insurance within the meaning of any statute limiting the right to cancel or nonrenew a policy of insurance.

(d) If any party to a contract or other agreement refuses without reasonable cause to accept a binder as proof of insurance when that proof is required by the contract or agreement, that party shall be deemed to have breached the contract and the other party thereto, shall be entitled to appropriate injunctive relief and may recover damages for the breach and reasonable attorney's fees and costs.

As used in this subdivision, "reasonable cause" includes, but shall not be limited to, any of the following:

- (1) Inadequate coverage or inappropriate terms of coverage with respect to the interest of the vendor, lender, lessor, or other person providing a service to the insured.
- (2) Failure of the insurer to meet the financial standards "lawfully" established by the lender for all insurers for the type of loan for which the insurance is obtained.
- (3) Inability of the lender to determine if the insurer is licensed as an admitted insurer by the commissioner to transact the line of insurance for which the binder is issued.
- (4) Failure of the insurance agent to provide the lender with written evidence of the agent's authority to bind insurance coverage on behalf of the insurer under the binder.
- (5) Failure of the binder to comply with this section.

(e) For purposes of all insurance policies providing collateral insurance coverage, binders issued in accordance with this section shall be deemed an insurance policy.

(f) The commissioner may suspend or revoke the license of any agent issuing or purporting to issue any binder of a type for which the agent lacks authority from the insurer named in the binder.

(Added by Stats. 1989, Ch. 971, Sec. 1.)

383. It is a misdemeanor:

- (a) For any insurer, or any agent of any insurer, to issue a policy in violation of the requirements of subdivision (f) of section 381.
- (b) For any insurance agent or broker to assist in arranging for the insurance where the policy violates such requirements.
- (c) For any insurer to violate the provisions of section 382.

(Enacted by Stats. 1935, Ch. 145.)

383.5. "Document," as used in this section, means a policy or a certificate evidencing insurance under a master policy. The policy or certificate shall conform to Section 381 and shall segregate the premiums charged for each risk insured against. The certificate, in lieu of specifying the risks insured against, may designate them by name or by description. "Document" also includes the applicable policy form and a subsequently issued declarations page conforming to Section 381 or an endorsement.

"Owner," as used in this section, means any person who is named as an insured in the contract of insurance or document, or in a loss payable clause therein, and, whether or not he or she is named therein, the vendee, pledgor, or chattel mortgagor of a motor vehicle where insurance contracts subject to this section are procured with respect to the motor vehicle by or on behalf of either party to the purchase, pledge, or mortgage.

Every contract of insurance against hazards incident to ownership, maintenance, operation, and use of motor vehicles shall be embodied in a document.

The original or true copy of the document shall be delivered to each owner. Where it is executed by an insurer, the insurer shall deliver the original or a true copy to either of the following:

- (a) The agent or broker who negotiated the insurance, for delivery to each owner of the motor vehicle.
- (b) Each owner of the motor vehicle.

Any owner whose interest in the insured vehicle is for security purposes only may by written notice to the insurer waive delivery of the policy and in lieu thereof there shall be delivered to the owner a written certificate of insurance setting forth in brief form the matters specified in Section 381.

The agent or broker receiving the original or copy shall deliver one to each owner. Where coverage subject to this section is evidenced by a document executed by an agent licensed under Chapter 5 (commencing with Section 1621) of Part 2, and not by an insurer, the agent and not the insurer is responsible for delivery of the original or a true copy to each owner.

The licenses of any agent or broker found by the commissioner after hearing to have violated this section may be suspended or revoked in accordance with the procedure provided in Article 13 (commencing with Section 1737) of Chapter 5 of Part 2, or the certificate of authority of any insurer found by the commissioner after hearing to have violated this section may be suspended or revoked in accordance with the procedure provided in Section 704.

The purpose of this section is to prevent fraud or mistake in connection with the transaction of insurance covering motor vehicles and in furtherance of that purpose the commissioner may make reasonable rules and regulations therefor. The rules and regulations shall be adopted, amended, or repealed in accordance with the procedure provided in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(Amended by Stats. 1985, Ch. 106, Sec. 91.)

383.6. The phrase "motor vehicle" or "motor vehicles" as used in Section 383.5 includes, but is not limited to:

(a) Trailers, house trailers, mobilehomes, campers and all other wheeled vehicles or nonwheeled structures so made as to be capable of being moved as a compatible portion thereof, or trailed behind, any motor vehicle as that term is defined in the Vehicle Code, whether in immobile position or not.

(b) Motorcycles, motorbikes and motor scooters, except powered bicycles not manufactured for inclusion of a motor.

All present or future rules or regulations promulgated by the commissioner pursuant to Section 383.5 shall be applicable to motor vehicles as defined in this section.

(Added by Stats. 1967, Ch. 452.)

384. (a) A certificate of insurance or verification of insurance provided as evidence of insurance in lieu of an actual copy of the insurance policy shall contain the following statements or words to the effect of:

This certificate or verification of insurance is not an insurance policy and does not amend, extend or alter the coverage afforded by the policies listed herein. Notwithstanding any requirement, term, or condition of any contract or other document with respect to which this certificate or verification of insurance may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of the policies.

(b) This section is not applicable to a surplus line broker certificate as defined in Section 48.

(Amended by Stats. 2000, Ch. 135, Sec. 107. Effective January 1, 2001.)

386. All policies issued by incorporated insurers shall be subscribed by the president or vice president, or chairman, or chief executive officer, or, in case of the death, absence, or disability of those officers, by any two of the directors, and countersigned by the secretary of the corporation. All such policies are as binding and obligatory upon the corporation as if executed over the corporate seal.

(Amended by Stats. 1990, Ch. 539, Sec. 1.)

387. When the name of the person intended to be insured is specified in a policy, it can be applied only to his own interest.

(Enacted by Stats. 1935, Ch. 145.)

388. When an insurance contract is executed with an agent or trustee as the insured, the fact that his principal or beneficiary is the real party in interest may be indicated by describing the insured as agent or trustee, or by other general words in the policy.

(Enacted by Stats. 1935, Ch. 145.)

389. To render an insurance effected by one partner or part-owner applicable to the interest of his copartners, or of other part-owners, it is necessary that the terms of the policy should be such as are applicable to the joint or common interest.

(Enacted by Stats. 1935, Ch. 145.)

390. When the description of the insured in a policy is so general that it may comprehend any person or any class of persons, only he who can show that it was intended to include him can claim the benefit of the policy.

(Enacted by Stats. 1935, Ch. 145.)

391. A policy may be so framed that it will inure to the benefit of whomsoever, during the continuance of the risk, becomes the owner of the interest insured.

(Enacted by Stats. 1935, Ch. 145.)

392. Any exception from the risk generally covered by a policy of insurance which insures property for the period of time when such property is under the dominion and control of a party other than the insured for the purpose of storage or for the purpose of transferring such property to another location shall be printed in at least eight-point blackface type.

(Added by Stats. 1968, Ch. 135.)

394. (a) The commissioner may approve insurance policies and associated materials in languages other than English if the following conditions are met:

(1) The policyholder is given a copy of the same material in English.

(2) The English version is the official version.

(3) A policyholder document in a language other than English shall contain a disclosure statement in both that language and in English that states that the English version is the official version and the foreign language version is for informational purposes only.

(b) An insurer that knowingly misrepresents information provided in a language other than English shall be subject to Article 6.5 (commencing with Section 790) of Chapter 1 of Part 2.

(Added by Stats. 2002, Ch. 358, Sec. 1. Effective January 1, 2003.)

395. After a covered loss, an insurer shall provide, free of charge, a complete copy of the insured's current insurance policy or certificate within 30 calendar days of receipt of a request from the insured. The period for providing the insurance policy or certificate may be extended by the commissioner. An insured who does not experience a covered loss shall, upon request, be entitled to one free copy of his or her current insurance policy or certificate annually. The insurance policy or certificate provided to the insured shall include, where applicable, the policy declarations page. This section shall not apply to commercial policies issued pursuant to Sections 675.5 and 676.6, and policies of workers' compensation insurance, as defined in Section 109.

(Amended by Stats. 2014, Ch. 71, Sec. 96. (SB 1304) Effective January 1, 2015.)

396. (a) An insurer shall do either of the following:

(1) Maintain a verifiable process that allows a policyholder to designate in writing or by electronic transmission pursuant to Section 38.6 one additional person to receive notice of lapse, termination, expiration, nonrenewal, or cancellation of a policy for nonpayment of premium. The insurer shall notify the policyholder in writing or by electronic transmission pursuant to Section 38.6 of this right at the time of the application or within 30 days after the inception date of an individual policy described in subdivision (f), and at least every two years thereafter. The notification described in this subdivision shall instruct the policyholder how to request the designation and how to replace or delete a designee. If a policyholder initiates contact with the insurer after the insurer has provided notice and the insurer complies with the policyholder's request to establish or change the additional person to receive the notice described in this section, the insurer shall not be required to maintain additional verification.

(2) Comply with subdivision (b).

(b) An insurer that adopts the following procedure shall be deemed to have complied with subdivision (a).

(1) Unless an applicant for insurance has been provided notice of the right set forth in this section prior to inception of the policy, the insurer shall provide the policyholder, within 30 days after the inception date of an individual policy described in subdivision (f), with notice of the right to designate one person, in addition to the policyholder, to receive notice of lapse, termination, expiration, nonrenewal, or cancellation of a policy for nonpayment of premium. The insurer shall provide each applicant or policyholder with notice in writing or by electronic transmission pursuant to Section 38.6 of the opportunity to make the designation. That notice shall instruct the applicant or policyholder on how the applicant or policyholder is to submit the name and address of one person, in addition to the applicant or policyholder, who is to receive notice of lapse, termination, expiration, nonrenewal, or cancellation of the policy for nonpayment of premium.

(2) If after having been provided notice from the insurer of the right to designate an individual to receive notice of lapse, termination, expiration, nonrenewal, or cancellation for nonpayment of premium, the applicant or policyholder fails to designate an individual within 30 days, the applicant or policyholder shall be conclusively presumed to have declined the opportunity to exercise their right at that time.

(3) Notwithstanding subparagraph (C) of paragraph (2) of subdivision (a) of Section 791.13 or any other law, the insurer shall retain and utilize as necessary the contact information provided in the written designation for the lifetime of the policy, and allow the policyholder to update the written designation if the policyholder so requests.

(c) (1) A policyholder retains the right to designate the one additional person to receive notice of lapse, termination, expiration, nonrenewal, or cancellation for nonpayment of premium at any time, at the initiative of the policyholder, regardless of whether the

policyholder previously declined to exercise that right. At least every two years, the insurer shall notify the policyholder in writing or by electronic transmission pursuant to Section 38.6, of whichever of the following applies:

(A) If a policyholder has previously provided a designation pursuant to this subdivision, in writing or by electronic transmission pursuant to Section 38.6, the right to change the prior designation by replacing or deleting a person to receive notice of lapse, termination, expiration, nonrenewal, or cancellation for nonpayment of premium.

(B) If the policyholder has not previously designated a person to receive the notice of lapse, termination, expiration, nonrenewal, or cancellation for nonpayment of premium pursuant to this subdivision, the right to designate a person to receive notice of lapse, termination, expiration, nonrenewal, or cancellation for nonpayment of premium.

(2) The notice requirements in subparagraphs (A) and (B) of paragraph (1) may be provided to a policyholder in a single notice and shall not require two separate notices.

(d) When a policyholder pays the premium for an insurance policy through a payroll or pension deduction plan, the requirements contained in paragraph (1) of subdivision (b) need not be met until 60 days after the policyholder is no longer on that deduction payment plan.

(e) An insurance policy shall not lapse or be terminated for nonpayment of premium unless the insurer, at least 10 days prior to the effective date of the lapse, termination, expiration, nonrenewal, or cancellation, gives notice to the individual designated pursuant to subdivision (a) or (b) at the address provided by the policyholder for purposes of receiving the notice of lapse, termination, expiration, nonrenewal, or cancellation for nonpayment of premium. Notwithstanding any other law, notice shall be given by first-class United States mail, postage prepaid, within 10 days after the premium is due and unpaid. This subdivision does not modify requirements for notice to the policyholder of lapse, termination, expiration, nonrenewal, or cancellation set forth in other sections of this code.

(f) This section applies only to policies of private passenger automobile insurance that provide coverage for six months or longer, policies of residential property insurance as described in subdivision (a) of Section 10087 that take effect or that are renewed after the effective date of this section, and policies of individual disability income insurance as described in subdivision (c) of Section 799.01, except if the premiums for the individual disability income policy are paid entirely by the employer.

(g) This section applies to policies that are issued and take effect or that are renewed on or after January 1, 2016.

(h) An individual designated by a policyholder pursuant to this section to receive notice of lapse, termination, expiration, nonrenewal, or cancellation of the policy for nonpayment of premium does not have any rights, whether as an additional insured or otherwise, to any benefits under the policy, other than the right to receive notice as provided by this section.

(Amended by Stats. 2022, Ch. 424, Sec. 2. (SB 1242) Effective January 1, 2023.)