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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 5. The Premium [480 - 491] (Chapter 5 enacted by Stats. 1935, Ch. 145.)

480. An insurer is entitled to payment of the premium as soon as the subject matter insured is exposed to the peril insured against.
(Enacted by Stats. 1935, Ch. 145.)

481. (a) Unless the insurance contract otherwise provides, a person insured is entitled to a return of his or her premium if the policy is canceled, rejected, surrendered, or rescinded, as follows:

(1) To the whole premium, if the insurer has not been exposed to any risk of loss.

(2) When the insurance is made for a definite period of time and the insured surrenders his or her policy, to that proportion of the premium as corresponds with the unexpired time, after deducting from the whole premium any claim for loss or damage under the policy that has previously accrued. The provisions of Section 482 apply only to the expired time.

(b) No contract for individual motor vehicle liability or homeowners' multiple-peril insurance may contain a provision that mandates that the premium for the policy shall be fully earned upon the happening of any contingency except the expiration of the policy itself. This subdivision shall not apply to policy fees or membership fees.

(c) (1) Any insurance policy that includes a provision to refund premium other than on a pro rata basis, including the assessment of cancellation fees, shall disclose that fact in writing, including the actual or maximum fees or penalties to be applied, which may be stated in the form of percentages of the premium. The disclosure shall be provided prior to, or concurrent with, the application and prior to each renewal to which the policy provision applies. For purposes of this subdivision, an insurer offering workers' compensation insurance, as defined in Section 109, may provide the disclosure with the quote offering insurance to the consumer prior to the consumer accepting the quote in lieu of disclosure prior to, or concurrent with, the application. Disclosure shall not be required if the policy provision permits, but does not require, the insurer to refund premium other than on a pro rata basis, and the insurer refunds premium on a pro rata basis.

(2) If an application is made by telephone, the disclosure shall be mailed to the applicant or insured within five business days.

(3) The disclosure may be made electronically pursuant to Section 38.6 in lieu of being mailed.

(4) This section does not apply to cancellations that are calculated subject to paragraph (2) of subdivision (g) of Section 673.

(d) This section shall not apply to policies of ocean marine insurance. For purposes of this section, "ocean marine insurance" means insurance of vessels or crafts, their cargos, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine insurance governed by the provisions of Chapter 1 (commencing with Section 1880) of Part 1 of Division 2, and as distinguished from inland marine insurance policies.

(e) The disclosure requirements of subdivision (c) shall be prospective and shall apply only to policies issued or renewed on or after January 1, 2012.

(f) Nothing in this section shall require any additional disclosure of a fee or penalty for early cancellation if that disclosure is required by any other law.

(Amended by Stats. 2017, Ch. 417, Sec. 4. (AB 1696) Effective January 1, 2018.)

481.1. (a) In the event any conditional receipt, binder, or other evidence of temporary or implied insurance, except ocean marine insurance as defined in Section 481 and those classes of insurance as defined in Sections 101, 104, and 106, is canceled, rejected, or surrendered by the insurer, the coverage thereby extended shall terminate 10 days after written notice to the named insured is deposited, properly addressed with postage prepaid, with the United States Postal Service.

(b) Any conditional receipt, binder, or other evidence of temporary or implied insurance described in subdivision (a) shall remain in force for a period of at least 30 days from the date of its issuance unless sooner canceled, rejected, or surrendered pursuant to the provisions of subdivision (a).

(Amended by Stats. 1977, Ch. 404.)

481.5. (a) Whenever a policy of personal lines insurance terminates for any reason, or there is a reduction in coverage, the insurer shall tender the gross unearned premium resulting from the termination, or the amount of the unearned premium generated by the reduction in coverage, to the insured or, pursuant to Section 673, to the insured's premium finance company. The gross unearned premium shall be tendered within 25 business days after the insurer either receives notice of the event that generated the gross unearned premium, or receives notice from a premium finance company of a cancellation.

(b) (1) Whenever a policy other than a policy of personal lines insurance terminates for any reason, or there is a reduction in coverage, the gross unearned premium shall be tendered to the insured or, pursuant to Section 673, to the insured's premium finance company. If the policy is not auditable, the gross unearned premium shall be tendered within 80 business days after the insurer either receives notice of the event that generated the gross unearned premium, or receives notice from a premium finance company of a cancellation. If the policy is auditable, the gross unearned premium shall be tendered within 80 business days after the insured provides all requested audit information to the insurer or the insurer's designee.

(2) Notwithstanding paragraph (1), an insurer shall not be required to tender the unearned premium within 80 business days if the final unearned premium amount cannot be determined due to the insured's failure, in breach of a policy requirement, to cooperate with the insurer in a premium audit, or if the amount of the unearned premium determined by a premium audit remains in dispute.

(c) An insurer may tender gross or net unearned premium to an agent or broker, or net unearned premium to a finance company, but shall remain liable to the insured or finance company for payment of any portion of the gross unearned premium that the agent or broker fails to remit to the insured or premium finance company.

(d) Any unearned premium that an insurer fails to tender within the time periods specified in subdivisions (a) and (b) shall bear interest at the rate of 10 percent per annum from and after the date on which the unearned premium was required to be tendered. For the purposes of this section, the tender of any unearned premium to the insured or premium finance company shall be deemed complete upon the deposit of the unearned premium in the United States mail, prepaid, addressed to the named insured or premium finance company at the last known address, or to an agent or broker with an assignment pursuant to paragraph (1) of subdivision (g).

(e) For the purpose of this section, the following definitions apply:

(1) "Gross unearned premium" means the unearned portion of the full amount of the premium charged to the insured, including the unearned portion of any amount of the premium the insurer allocated to an agent or broker as commission.

(2) "Net unearned premium" means the gross unearned premium minus the unearned commission.

(3) "Policy of personal lines insurance" means an insurance policy that is designed for and bought by individuals, and includes, but is not limited to, homeowners' and automobile policies.

(f) The interest penalty required by this section shall not apply to any insurer in conservatorship or liquidation, nor shall this insurer be subject to any other penalty for failure to remit unearned premium in accordance with the time periods required by this section.

(g) (1) An assignment by an insured to an agent or broker of the insured's right to receive unearned premium shall be valid only for the purpose set forth in Section 1735.5.

(2) If the insured notifies the insurer, 25 or more days after the insurer's tender of unearned premium to an agent or broker with an assignment pursuant to paragraph (1), that the agent or broker has failed to issue to the insured an accounting of an offset permitted by Section 1735.5, the insurer shall, within an additional 15 days, either tender the unearned premium directly to the insured or provide the insured with the agent's or broker's accounting of the offset permitted by Section 1735.5.

(3) Whenever an insurer tenders the net rather than gross unearned premium to an agent or broker or premium finance company, the insurer shall contemporaneously notify the agent or broker of the amount of the unearned commission.

(4) If an insurer elects to tender the net rather than the gross unearned premium to a premium finance company, the insurer shall document that the agent or broker tendered unearned commission to the premium finance company within the period required

under subdivision (a) or (b) after the insurer either receives notice of the event that generated the unearned premium, or receives notice from a premium finance company of a cancellation.

(h) Whenever an agent or broker receives a refund from a premium finance company, the agent or broker shall tender that money to the insured within 25 days. Whenever an agent or broker with an assignment from the insured receives unearned premium from an insurer, the agent or broker shall account to the insured for any offset permitted by Section 1735.5 within 25 days. If the agent or broker fails to tender payment of any remaining unearned premium after the offset within 25 days, the agent or broker shall pay the insured interest at the rate of 10 percent per annum from and after the 26th day after the agent or broker receives the refund.

(i) In addition to the required unearned premium refund, an insurer shall provide both the insured and the agent or broker, upon the request of either, with an accounting and explanation of how the amount of the refund was calculated. The explanation shall be clear, concise, and easy to comprehend. The commissioner may adopt regulations setting forth standards to govern this subdivision.

(j) For purposes of subdivisions (a) to (c), inclusive, if the unearned premium is not assigned as security to a premium finance agency pursuant to a premium finance agreement and the amount of unearned premium is less than twenty-five dollars (\$25), tender of unearned premium shall include applying the amount of unearned premium either to the renewal premium at the next renewal date or to other premiums due, provided written notice of either application is given to the insured within 30 days after the endorsement, rejection, declination, cancellation, or surrender of a policy of insurance. At the time of endorsement or surrender of a policy of insurance or, within 15 days after the mailing of the written notice required by this subdivision, the insured may request in writing that the unearned premium be tendered as provided in subdivisions (a) to (c), inclusive. Whenever the amount of unearned premium is less than five dollars (\$5), tender shall be effective and the written notice required by this subdivision shall not be required if the unearned premium is applied either to the renewal premium at the next renewal date or to other premiums due.

(k) Notwithstanding subdivisions (a) to (c), inclusive, an insurer may at any time solicit the insured's consent, or may in its policy reserve the right, to apply the unearned premium generated by an amendment or endorsement removing or reducing coverage for an insured person or property to the balance owed on the policy as a whole, rather than tendering a refund of the unearned premium. This subdivision shall not apply if the unearned premium is assigned as security to a premium finance company.

(l) The amount of unearned premium required to be refunded by an insurer pursuant to this section shall not exceed the amount paid to the insurer by the insured or by a premium finance company.

(Amended by Stats. 2006, Ch. 538, Sec. 450. Effective January 1, 2007.)

482. Except as provided by section 481, or by the insurance contract, if a peril insured against has existed, and the insurer has been liable for any period, however short, the insured is not entitled to return of premiums, so far as that particular risk is concerned.

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

483. A person insured is entitled to a return of the premium:

(a) When the contract is voidable, on account of the fraud or misrepresentation of the insurer.

(b) When the contract is voidable on account of facts, of the existence of which the insured was ignorant without his fault.

(c) When, by any default of the insured other than actual fraud, the insurer did not incur any liability under the policy.

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

484. An acknowledgment in a policy of the receipt of premium is conclusive evidence of its payment, so far as to make the policy binding. Notwithstanding such acknowledgment, a policy may be canceled effective at such times as otherwise permitted by law for nonpayment of all or any portion of the premium which is actually unpaid if such cancellation right is reserved to the insurer in the policy.

(Amended by Stats. 1969, Ch. 536.)

485. In case of an overinsurance by several insurers, the insured is entitled to a ratable return of the premium, proportioned to the amount by which the aggregate sum insured in all the policies exceeds the insurable value of the subject at risk.

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

486. When an overinsurance is effected by simultaneous policies, the insurers contribute to the premium to be returned in proportion to the amount insured by their respective policies.

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

487. When an overinsurance is effected by successive policies, those only contribute to a return of the premium who are exonerated by prior insurance from the liability assumed by them, and in proportion as the sum for which the premium was paid exceeds the amount for which, on account of prior insurance, they could be made liable.

488. No insurer shall, in issuing or renewing a private passenger automobile insurance policy, increase the premium on that policy for the reason that the insured or applicant for insurance has been convicted for traffic violations committed while operating a motor vehicle for compensation during the hours of his employment if, with respect to a conviction, the employee or applicant has submitted to the insurer a written declaration made by the employee under penalty of perjury that the applicant or insured was, at that time, operating a motor vehicle for compensation during the hours of his or her employment. This section applies only to those individuals whose specific duties include driving their employer's motor vehicles or individuals who have authority in their name from the Public Utilities Commission to operate as a highway carrier and who are the registered owners or lease operators of the motor vehicle used in the operation as a highway carrier.

This section does not apply to an insured or applicant for insurance convicted of any of the following:

- (a) Homicide or assault arising out of the operation of a motor vehicle for compensation during the hours of employment.
- (b) A violation while operating a motor vehicle for compensation during the hours of employment of any of the following sections or section subdivisions of the Vehicle Code:
 - (1) Subdivision (a) of Section 14601.
 - (2) Subdivision (a) of Section 14601.1.
 - (3) Subdivision (a) of Section 14601.2.
 - (4) Section 20001 or 20002.
 - (5) Subdivision (a) of Section 20008.
 - (6) Section 23103, 23104, 23105, 23152, or 23153.
- (c) This section shall not apply to a person insured under the California assigned risk plan prescribed by Article 4 (commencing with Section 11620) of Chapter 1 of Part 3 of Division 2.

(Amended by Stats. 2007, Ch. 682, Sec. 2. Effective January 1, 2008.)

488.5. (a) An insurer shall not, in issuing or renewing a private automobile insurance policy to a peace officer, member of the Department of the California Highway Patrol, or firefighter, with respect to his or her operation of a private passenger motor vehicle, increase the premium on that policy for the reason that the insured or applicant for insurance has been involved in an accident while operating an authorized emergency vehicle, as defined in subdivision (a) or (f) of Section 165 of the Vehicle Code or in paragraph (1) or (2) of subdivision (b) of Section 165 of the Vehicle Code, or any employer-leased vehicle or employer-rented vehicle, in the performance of his or her duty during the hours of his or her employment, or was involved in an accident while operating his or her private passenger motor vehicle in the performance of his or her duty at the request or direction of an employer.

(b) An insurer shall not, in issuing or renewing a private automobile insurance policy to a federal officer or federal customs agent, with respect to his or her operation of a private motor vehicle, increase the premium on that policy for the reason that the insured or applicant for insurance has been involved in an accident while operating an official government vehicle in the performance of his or her duty during the hours of his or her employment.

(c) As used in this section:

- (1) "Peace officer" means every person defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.
- (2) "Policy" shall have the same meaning as defined in subdivision (a) of Section 660.

(Amended by Stats. 2012, Ch. 823, Sec. 1. (AB 2298) Effective January 1, 2013.)

489. (a) Upon issuance of a policy of insurance described in Section 660, the insurer or its agent shall deliver to the named insured a notice explaining the manner in which the insurer's rating plan provides for an increase in the premium based upon accidents or convictions within the meaning of Sections 13103 and 13105 of the Vehicle Code.

Every insurer or its agent, not less than 20 days prior to renewal of a policy covered by this section, shall inform the named insured of the named insured's right to be informed, upon request, of any increase in the premium, in whole or in part, charged the named insured by virtue of the involvement in any accident, or conviction within the meaning of Section 13103 and 13105 of the Vehicle Code, by the insured or any operator of the motor vehicle.

(b) Every insurer shall, after March 1, 1977, as part of the first offer required by Section 663, deliver to everyone who was a named insured under a policy of insurance described in Section 660 on March 1, 1977, a notice explaining the manner in which the insurer's rating plan provides for an increase in the premium, based upon accidents or convictions within the meaning of Sections 13103 and 13105 of the Vehicle Code. The provisions of this subdivision shall expire on March 1, 1978.

(Added by Stats. 1976, Ch. 1240.)

491. The rating plan of a motor vehicle liability insurer shall not provide for an increase in the premium if based upon an accident in which the insured is not at fault, in any manner, as determined by either the accident report or the insurer. In the event the insurer determines that its insured is at fault contrary to an accident report's specific finding that the insured is not at fault, the insurer shall reach its conclusion only after an investigation.

(Added by Stats. 1986, Ch. 470, Sec. 1.)