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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 2. THE BUSINESS OF INSURANCE [680 - 1879.8] (Part 2 enacted by Stats. 1935, Ch. 145.)

CHAPTER 2. Incorporated Insurers [1140 - 1260] (Chapter 2 enacted by Stats. 1935, Ch. 145.)

ARTICLE 5.5. Life Insurance Policy Loans [1230 - 1239.5] (Article 5.5 added by Stats. 1982, Ch. 1351, Sec. 3.)

1230. The Legislature declares that the purpose of this article is to establish guidelines for life insurers to use in life insurance policies which contain a provision for periodic adjustment of policy loan interest rates and are issued after the effective date of this article.

It is the intent of the Legislature that the life insurance industry make available to the people of the State of California who purchase new life insurance policies after the effective date of this act the benefits of higher dividends or lower premiums, or both, resulting from the increased earnings through the use of higher policy loan interest rates.

(Added by Stats. 1982, Ch. 1351, Sec. 3.)

1231. For the purposes of this article the "published monthly average" means:

(a) Moody's Corporate Bond Yield Average-Monthly Average Corporates as published by Moody's Investors Service, Inc. or any successor thereto.

(b) In the event that Moody's Corporate Bond Yield Average-Monthly Average Corporates is no longer published, a substantially similar average, established by the Legislature.

(Added by Stats. 1982, Ch. 1351, Sec. 3.)

1232. (a) Policies issued on or after the effective date of this article shall provide for policy loan interest rates at either of the following rates:

(1) A provision permitting a maximum interest rate of not more than 8 percent per annum.

(2) A provision permitting an adjustable maximum interest rate established from time to time by the life insurer as permitted by law.

(b) The rate of interest charged on a policy loan made under paragraph (2) of subdivision (a) shall not exceed the higher of the following:

(1) The published monthly average for the calendar month ending two months before the date on which the rate is determined.

(2) The rate used to compute the cash surrender values under the policy during the applicable period plus 1 percent per annum.

(c) Any insurer offering insurance policies with an adjustable policy loan interest rate shall establish a written pricing or dividend policy in order that the holders of the policies shall receive a benefit from any earnings of the insurer resulting from the use of the adjustable rate, either by means of higher dividends or lower premiums or a combination of both.

(Added by Stats. 1982, Ch. 1351, Sec. 3.)

1233. If the maximum rate of interest is determined pursuant to paragraph (2) of subdivision (a) of Section 1232, the policy shall contain a provision setting forth the frequency at which the rate is to be determined for that policy.

(Added by Stats. 1982, Ch. 1351, Sec. 3.)

1234. The maximum rate for each policy shall be determined at regular intervals at least once every 12 months, but not more frequently than once in any three-month period.

At the intervals specified in the policy:

(1) The rate being charged may be increased whenever the increase as determined under subdivision (b) of Section 1232 would increase that rate by one-half of 1 percent or more per annum.

(2) The rate being charged shall be reduced whenever the reduction as determined under subdivision (b) of Section 1232 would decrease that rate by one-half of 1 percent or more per annum.

(Added by Stats. 1982, Ch. 1351, Sec. 3.)

1235. The life insurer shall do all of the following:

(1) Notify the policyholder at the time a cash loan is made of the initial rate of interest on the loan.

(2) Notify the policyholder with respect to premium loans of the initial rate of interest on the loan as soon as it is reasonably practical to do so after making the initial loan. Notice need not be given to the policyholder when a further premium loan is added, except as provided in paragraph (3).

(3) Send to policyholders with loans reasonable advance notice of any increase in the rate.

(4) Include in the required notices the substance of the pertinent provisions of subdivision (a) of Section 1232 and Section 1233.

(Added by Stats. 1982, Ch. 1351, Sec. 3.)

1236. The loan value of the policy shall be equivalent to the cash surrender value of the policy, the minimum requirements of which are specified in Sections 10160 through 10165 for life insurance and in Section 11043, for fraternal benefit society policies or certificates, but no policy shall terminate in a policy year as the sole result of change in the interest rate during that policy year. The life insurer shall maintain coverage during that policy year until the time at which it would otherwise have terminated if there had been no change during that policy year.

(Added by Stats. 1982, Ch. 1351, Sec. 3.)

1237. The substance of the pertinent provisions of Section 1232 and 1233 shall be set forth in the policies to which the provisions apply.

(Added by Stats. 1982, Ch. 1351, Sec. 3.)

1238. For the purposes of this section:

(1) The rate of interest on policy loans permitted under this section includes the interest rate charged on reinstatement of policy loans for the period during and after any lapse of a policy.

(2) "Policy loan" includes any premium loan made under a policy to pay one or more premiums that were not paid to the life insurer as they fell due.

(3) "Policyholder" includes the owner of the policy or the person designated to pay premiums as shown on the records of the life insurer.

(4) "Policy" includes certificates issued by a fraternal benefit society and annuity contracts which provide for policy loans.

(Added by Stats. 1982, Ch. 1351, Sec. 3.)

1239. No other provision of law shall apply to policy loan interest rates unless made specifically applicable to these rates.

(Added by Stats. 1982, Ch. 1351, Sec. 3.)

1239.5. The provisions of this article shall not apply to any insurance contract issued before the effective date of this article unless the policyholder agrees in writing to the applicability of these provisions.

(Added by Stats. 1982, Ch. 1351, Sec. 3.)

