

AMENDED IN ASSEMBLY MAY 1, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1398**

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**Introduced by Assembly Member Kalra**

February 17, 2017

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An act to add Section 10168.45 to the Insurance Code, relating to annuities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1398, as amended, Kalra. Annuities: cash surrender benefits.

Existing law governs annuities and, for those insurance contracts that provide cash surrender benefits, prescribes the cash surrender benefit available prior to maturity. Existing law also requires the death benefit under these contracts to be at least equal to the cash surrender benefit. Existing law requires, with exceptions, that no contract of annuity be delivered or issued for delivery in this state unless it contains, in substance, specified provisions, or corresponding provisions ~~which that~~ in the opinion of the commissioner are at least as favorable to the contractholder, upon cessation of payment of considerations under the contract.

~~This bill~~ *bill*, among other things, would require the ~~insurer insurer~~, for a contract issued on or after an unspecified date, to return to the owner all moneys due for annuity contracts that are surrendered by the contract owner as expeditiously as possible after the request for surrender is received, as defined, but no later than 45 days from the date of surrender, as specified. The bill would authorize insurers to require that a request to surrender a contract be in writing and contain various elements, including, the contract or certificate number of the contract to be surrendered. *The bill would also authorize the insurer to*

*require the contract owner to complete an administrative form, as provided, as part of the surrender process, and would require the surrender be processed and all moneys due be returned within 30 days from the date of the surrender if the contract owner completes and submits the administrative form within 14 days of the surrender request'. The bill would require a contract to include language or be accompanied by a notice setting forth the elements necessary to surrender the contract, as specified.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
 State-mandated local program: no.

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

1 SECTION 1. Section 10168.45 is added to the Insurance Code,  
 2 immediately following Section 10168.4, to read:  
 3 10168.45. (a) (1) For a contract subject to this article that is  
 4 surrendered by the contract owner, the insurer shall return to the  
 5 owner all moneys due in relation to that contract as expeditiously  
 6 as possible but not later than 45 days from the date the surrender  
 7 is effective as provided in subdivision (b).  
 8 (2) An insurer may defer payment of cash surrender value for  
 9 up to six months, as described in Section 10168.1, to the extent  
 10 that deferral is necessary to ensure the solvency of the insurer.  
 11 *months if the approval described in subdivision (b) of Section*  
 12 *10168.1 has been received.*  
 13 (b) (1) (A) A surrender of a contract is effective on the date  
 14 the request is received if the request is made to the insurer, or  
 15 servicing agent authorized by the insurer in writing to receive  
 16 requests for surrender on the insurer’s behalf, and contains the  
 17 elements specified by the insurer in the contract.  
 18 (B) The effective date of the surrender of a contract may be up  
 19 to 45 days after the request for surrender is received if it is  
 20 permitted by the contract and requested by the contract owner.  
 21 (2) The insurer may require the request for surrender to be in  
 22 writing.  
 23 (3) The elements the insurer may require as part of the request  
 24 for surrender are limited to the following:  
 25 (A) A statement that makes it clear that the contract owner  
 26 intends to surrender, in whole or in part, the contract in question.

1 (B) The contract or certificate number of the contract to be  
2 surrendered.

3 (C) The name of the contract owner on the contract to be  
4 surrendered.

5 (D) *A clear method of delivery and payee instructions for*  
6 *payment of the surrender value.*

7 ~~(D)~~

8 (E) The signature of the owner of the contract and if required  
9 by the contract or by a legally binding document that the insurer  
10 has actual notice of, the signature of a collateral assignee,  
11 irrevocable beneficiary, or other person having an interest in the  
12 contract through the legally binding document.

13 ~~(E)~~

14 (F) Either the contract itself, or, in lieu of the contract, a  
15 statement that the contract has been lost or destroyed.

16 (4) *The insurer may require the contract owner to complete an*  
17 *administrative form as part of the surrender process. The insurer's*  
18 *administrative form may only request information required to*  
19 *complete the surrender transaction. An administrative form shall*  
20 *be provided to the contract owner within two business days of the*  
21 *request, and the contract owner shall be able to access the form*  
22 *on the insurer's Internet Web site. The insurer's requirement to*  
23 *complete an administrative form shall not further the effective date*  
24 *of the surrender or extend the 45-day period in which the surrender*  
25 *is required to be processed.*

26 (A) *The administrative form shall be designed to provide the*  
27 *insurer with the information needed to complete the surrender*  
28 *transaction consistent with the contract owner's request. That*  
29 *information includes:*

30 (i) *The name, address, and telephone number of the contract*  
31 *owner.*

32 (ii) *The contract number.*

33 (iii) *The withdrawal amount, including requested beginning*  
34 *date, frequency, and maximum annual withdrawal amount.*

35 (iv) *Instructions on subaccount withdrawals.*

36 (v) *Instructions for tax withholding.*

37 (B) *If the insurer requires an administrative form and the*  
38 *contract owner completes and submits that form within 14 days*  
39 *of the surrender request, the insurer shall return all moneys due*

1 *as expeditiously as possible but not later than 30 days from the*  
2 *date of the surrender.*

3 (c) When the contract owner requests information about  
4 surrendering a contract from the insurer or servicing agent, the  
5 insurer or servicing agent shall provide, *upon request*, as  
6 expeditiously as possible, a written notice setting forth either the  
7 requirements of this section or the insurer's requirements.

8 (d) A contract subject to this section shall do either of the  
9 following:

10 (1) Include language, which may be included by endorsement,  
11 setting forth ~~either the requirements for surrender described in this~~  
12 ~~section or the insurer's requirements for surrender.~~ *section. The*  
13 *contract language may exclude any of the requirements in*  
14 *paragraph (3) or paragraph (4) of subdivision (b).*

15 (2) Be accompanied by a notice setting forth the elements  
16 required to surrender the contract pursuant to this ~~section or the~~  
17 ~~insurer's requirements.~~ *section. The contract language may exclude*  
18 *any of the requirements in paragraph (3) or paragraph (4) of*  
19 *subdivision (b).*

20 (e) (1) For a written request and for purposes of this section,  
21 "received" means the first day that the written notice is delivered  
22 to the address of the insurer or servicing agent authorized by the  
23 insurer in writing to receive requests for surrender on the insurer's  
24 behalf.

25 (2) (A) An insurer or servicing agent shall maintain a procedure  
26 for ensuring that requests for surrender are logged or stamped on  
27 the date received and not on a later date due to the insurer's or  
28 servicing agent's internal routing or delivery procedures.

29 (B) If the procedure required pursuant to subparagraph (A) is  
30 not maintained, it shall be conclusively presumed that a request  
31 was received on the earliest of the following:

32 (i) The delivery date shown on an express, certified, or registered  
33 mail receipt form of the United States Postal Service or by a  
34 commercial carrier.

35 (ii) Two business days after the request was postmarked by the  
36 United States Postal Service.

37 (iii) One business day before the date stamped received by the  
38 insurer or servicing agent.

39 (C) For purposes of this paragraph, "business day" has the  
40 meaning set forth in subdivision (b) of Section 1215.

1 (D) Postmarks generated by postage meters not located at an  
2 office of the United States Postal Service are to be disregarded.

3 (f) (1) This section does not alter a contractual provision  
4 governing calculation of cash or surrender or other values, unless  
5 that contractual provision applies a valuation date other than the  
6 effective date of surrender described in subdivision (b) to the  
7 calculation of cash or surrender or other values.

8 (2) The effective date established by subdivision (b) is intended  
9 to establish a date certain on which a contract owner may rely in  
10 determining when the 45-day period specified in subdivision (a)  
11 begins to run and a date certain for the insurer to use for the  
12 valuation of the contract.

13 (3) ~~An~~ *Notwithstanding paragraph (3) of subdivision (b), an*  
14 *insurer may request information in addition to that listed in*  
15 *subdivision (b). An insurer's request for additional information*  
16 *does not delay an effective date established by a contract owner's*  
17 *compliance with subdivision (b).*

18 ~~(g) For purposes of this section, contract owner shall also mean~~  
19 ~~certificate owner when the surrender is under a group annuity~~  
20 ~~contract subject to this article.~~

21 (4) *An insurer may request a signature guarantee if there is*  
22 *reason to believe a fraudulent situation may occur.*

23 (g) *This section shall only apply to contracts issued on or after*  
24 \_\_\_\_\_.