
SENATE COMMITTEE ON INSURANCE

Senator Susan Rubio, Chair

2019 - 2020 Regular

Bill No: SB 1255 **Hearing Date:** May 14, 2020
Author: Committee on Insurance
Version: February 21, 2020 As introduced
Urgency: No **Fiscal:** Yes
Consultant: Brian Flemmer

SUBJECT: Insurance.

DIGEST: Provides procedural flexibility to the California Department of Insurance (CDI) when holding a hearing to suspend or revoke a license for alleged misconduct against seniors; cleans up drafting errors within AB 1209 (Nazarian, 2019); cleans up ambiguity in CDI's licensing statutes; and makes other technical, nonsubstantive changes.

ANALYSIS:

Existing law:

- 1) Authorizes the Insurance Commissioner to deny an application for an agent or broker license, or revoke an existing license, if the applicant or licenseholder has engaged in specified activities.
- 2) For allegations of misconduct perpetrated against a person age 65 or over, existing law requires a hearing to suspend or revoke a license, registration, or certificate of authority, be held within 90 days after CDI receives notice of defense, unless a continuance is granted.
- 3) Prohibits the commissioner from approving a disability insurance policy, contract, or supplemental contract for insurance or delivery in this state if it meets certain criteria.
- 4) Prohibits a life insurance policy issued on or after January 1, 2021, that contains long-term care benefits and permits policy loans or cash withdrawals from prohibiting or limiting a loan or withdrawal while the insured receives payment of long-term care benefits, but authorizes future access to policy loans to be limited to the remaining cash value of the policy.

This bill:

- 1) Authorizes a hearing to suspend or revoke a license, registration, or certificate of authority for alleged misconduct perpetrated against a person age 65 or over to be set on the earliest available date if the Office of Administrative Hearings cannot accommodate the hearing within 90 days after the department's receipt of the notice of defense.
- 2) Clarifies that the commissioner cannot approve a disability insurance policy, contract, or supplemental contract for issuance or delivery in this state if it meets certain criteria.

- 3) Authorizes future access to cash withdrawals to be limited to the remaining cash value of the policy.
- 4) Makes various technical, nonsubstantive changes throughout.

Background

Under existing law, CDI can take disciplinary action against an applicant or licensee if they are convicted of insurance crime misdemeanors listed in the Insurance Code and other laws. However, a few relevant statutes refer to these types of misdemeanors as “denounced” by the insurance laws. This term is ambiguous and implies that some misdemeanors are worse than others. This bill would remove the ambiguity attached to the word “denounced” and make the law clearer by using the word “specified”, similar to its use in other Insurance Code sections.

CIC 1738.5 was written as a tool for CDI to use to be able to bring cases involving senior victims to hearing earlier than otherwise occurs. This is due to the myriad of issues that surround a case involving senior victims including the potential death of the victims, memory issues, and availability of witnesses (who are often times themselves seniors) among other concerns. The code states that a hearing “shall” be conducted within 90 days if the case involves allegations of a senior victim. As currently worded, an opportunity exists for opposing counsel to object to any case involving a senior victim that is not brought to hearing in 90 days.

This proposal clarifies that this section is a tool for CDI to use in senior cases if needed by clarifying that the 90-day timeframe is at the “request of the Department” ensuring that cases that are not requested to be heard in 90 days continue to progress through the normal administrative hearing process. This gives CDI the ability to use the expedited hearing time frame for senior cases if necessary and eliminates the potential that cases involving seniors will be dismissed if the case is not filed in 90 days.

The term “certificate holder” is always spelled as two words in the Insurance Code. Chaptered AB 1209 (Nazarian) of 2019 inadvertently wrote the term as one word: “certificateholder”. This bill amends the word into two words to align it with the rest of the Insurance Code. This proposal also fixes additional wording inadvertently left out of Insurance Code section 10235.45(a)(1) regarding cash withdrawals which was correctly included in (a)(2) of the same section.

Related/Prior Legislation

AB 1209 (Nazarian, Chapter 625, Statutes of 2019) Requires a life insurance policy issued on or after January 1, 2021, that contains long-term care (LTC) benefits (“hybrid policies”) and permits policy loans or cash withdrawals to not prohibit or limit a loan or withdrawal while the insured receives payment of LTC benefits, except as specified. Authorizes the payment of an accelerated death benefit for LTC to be applied toward repayment of a pro rata portion of an outstanding policy loan if the payment results in a pro rata reduction in the cash value of the life insurance policy. Requires an insurer to provide a statement to a policyholder or certificate holder at least 30 days before the first payment and no later than 30 days after every payment of an accelerated death benefit for LTC that includes specified information, including an explanation of policy changes that would or did occur due to the payment.

ARGUMENTS IN SUPPORT:

The Insurance Commissioner writes in support: "This bill remedies issues identified by the Department of Insurance staff to clarify and cleanup obsolete and superseded code sections."

SUPPORT:

California Insurance Commissioner Ricardo Lara

OPPOSITION:

None received

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