

ASSEMBLY BILL

No. 3234

Introduced by Assembly Member Knowles

February 23, 1996

An act to add Chapter 5.5 (commencing with Section 10509.950) and 5.6 (commencing with Section 10509.970) to Part 2 of Division 2 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 3234, as introduced, Knowles. Life insurance.

Under existing law, any insurer transacting life insurance in California must register its policies with the Insurance Commissioner and comply with specified provisions of the Insurance Code relating to, among others, reserve liabilities, capital requirements, and disclosure requirements for replacement of life insurance and annuity policies.

This bill would, effective January 1, 1998, regulate life insurance policy illustrations, as defined, and would apply to all group and individual life insurance policies and certificates, except as provided. This bill would require all insurers to notify the commissioner of any policy forms being actively marketed with an illustration. This bill would require all illustrations to comply with specified standards and requirements, and to include specified information. This bill would require an insurer to provide each owner of a policy for which illustrations are used, an annual report containing specified information on the status of the policy. This bill would require the board of directors of each insurer to appoint

one or more illustration actuaries who shall certify that the illustrations used by the insurer comply with certain professional standards and legal requirements.

Existing law requires life insurers to disclose certain information to prospective purchasers of life insurance.

This bill would require insurers, except as specified, when making a presentation showing or comparing the cost of life insurance over a period of years which does not recognize the time value of money, to also present the Life Insurance Surrender Cost Comparison Index, as calculated for both a 10-year and 20-year period. This bill would specify the necessary calculations to determine the Life Insurance Surrender Cost Comparison Index for level premium plans of insurance and non-level premium plans of insurance.

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

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

1 SECTION 1. Chapter 5.5 (commencing with Section
2 10509.950) is added to Part 2 of Division 2 of the Insurance
3 Code, to read:

4

5 CHAPTER 5.5. LIFE INSURANCE POLICY ILLUSTRATIONS

6 10509.950. In order to protect consumers and foster
7 consumer education, this chapter shall govern the
8 regulation of insurance policy illustrations. It is the intent
9 of the Legislature in enacting this chapter to ensure that
10 illustrations do not mislead purchasers of life insurance
11 and to make illustrations more understandable by
12 providing illustration formats, prescribing standards to be
13 followed when illustrations are used, and specifying the
14 disclosures that are required in connection with
15 illustrations. Insurers should, as far as possible, eliminate
16 the use of footnotes and caveats and define terms used in
17 the illustration in language that is understandable by a
18 typical person within the segment of the public to which
19 the illustration is directed.



1 10509.952. This chapter shall apply to all group and
2 individual life insurance policies and certificates except
3 as follows:

- 4 (a) Variable life insurance.
- 5 (b) Individual and group annuity contracts.
- 6 (c) Credit life insurance.
- 7 (d) Life insurance policies with no illustrated death
8 benefits on any individual exceeding ten thousand dollars
9 (\$10,000).

10 10509.953. As used in this chapter:

11 (a) "Actuarial Standards Board" means the board
12 established by the American Academy of Actuaries to
13 develop and promulgate standards of actuarial practice.

14 (b) "Contract premium" means the gross premium
15 that is required to be paid under a fixed premium policy,
16 including the premium for a rider for which benefits are
17 shown in the illustration.

18 (c) "Currently payable scale" means a scale of
19 non-guaranteed elements in effect for a policy form as of
20 the preparation date of the illustration or declared to
21 become effective within the next 95 days.

22 (d) "Disciplined current scale" means a scale of
23 non-guaranteed elements constituting a limit on
24 illustration currently being illustrated by an insurer that
25 is reasonably based on actual recent historical experience,
26 as certified annually by an illustration actuary designated
27 by the insurer. Further guidance in determining the
28 disciplined current scale as contained in standards
29 established by the Actuarial Standards Board may be
30 relied upon if the standards meet all of the following:

- 31 (1) Are consistent with all provisions of this chapter.
- 32 (2) Limit a disciplined current scale to reflect only
33 actions that have already been taken or events that have
34 already occurred.
- 35 (3) Do not permit a disciplined current scale to
36 include any projected trends of improvements in
37 experience or any assumed improvements in experience
38 beyond the illustration date.
- 39 (4) Do not permit assumed expenses to be less than
40 minimum assumed expenses.



1 (e) “Generic name” means a short title descriptive of
2 the policy being illustrated such as whole life, “term life”
3 or “flexible premium adjustable life.”

4 (f) “Guaranteed elements” means the premiums,
5 benefits, values, credits or charges under a policy of life
6 insurance that are guaranteed and determined at issue.

7 (g) “Illustrated scale” means a scale of
8 non-guaranteed elements currently being illustrated that
9 is not more favorable to the policy owner than the lesser
10 of either of the following:

11 (1) The disciplined current scale.

12 (2) The currently payable scale.

13 (h) “Illustration” means a presentation or depiction
14 that includes non-guaranteed elements of a policy of life
15 insurance over a period of years and that is one of the
16 three types defined below:

17 (1) “Basic illustration” means a ledger or proposal
18 used in the sale of a life insurance policy that shows both
19 guaranteed and non-guaranteed elements.

20 (2) “Supplemental illustration” means an illustration
21 furnished in addition to a basic illustration that meets the
22 applicable requirements of this regulation, and that may
23 be presented in a format differing from the basic
24 illustration, but may only depict a scale of
25 non-guaranteed elements that is permitted in a basic
26 illustration.

27 (3) “In force illustration” means an illustration
28 furnished at any time after the policy that it depicts has
29 been in force for one year or more.

30 (i) “Illustration actuary” means an actuary meeting
31 the requirements of Section 10509.960 who certifies to
32 illustrations based on the standard of practice
33 promulgated by the Actuarial Standards Board.

34 (j) “Lapse-supported illustration” means an
35 illustration of a policy form failing the test of
36 self-supporting as defined in this chapter, under a
37 modified persistency rate assumption using persistency
38 rates underlying the disciplined current scale for the first
39 five years and 100 percent policy persistency thereafter.



1 (k) (1) “Minimum assumed expenses” means the
2 minimum expenses that may be used in the calculation of
3 the disciplined current scale for a policy form. The
4 insurer may choose to designate each year the method of
5 determining assumed expenses for all policy forms from
6 all of the following:

7 (A) Fully allocated expenses.

8 (B) Marginal expenses.

9 (C) A generally recognized expense table based on
10 fully allocated expenses representing a significant portion
11 of insurance companies and approved by the
12 commissioner.

13 (2) Marginal expenses may be used only if greater than
14 a generally recognized expense table. If no generally
15 recognized expense table is approved, fully allocated
16 expenses must be used.

17 (l) “Non-guaranteed elements” means the premiums,
18 benefits, values, credits or charges under a policy of life
19 insurance that are not guaranteed or not determined at
20 issue.

21 (m) “Non-term group life” means a group policy or
22 individual policies of life insurance issued to members of
23 an employer group or other permitted group that
24 includes all of the following:

25 (1) Every plan of coverage was selected by the
26 employer or other group representative.

27 (2) Some portion of the premium is paid by the group
28 or through payroll deduction.

29 (3) Group underwriting or simplified underwriting is
30 used.

31 (n) “Policy owner” means the owner named in the
32 policy or the certificate holder in the case of a group
33 policy.

34 (o) “Premium outlay” means the amount of premium
35 assumed to be paid by the policy owner or other premium
36 payer out-of-pocket.

37 (p) “Self-supporting illustration” means an illustration
38 of a policy form for which it can be demonstrated that,
39 when using experience assumptions underlying the
40 disciplined current scale, for all illustrated points in time



1 on or after the fifteenth policy anniversary or the
2 twentieth policy anniversary for second-or-later-to-die
3 policies (or upon policy expiration if sooner), the
4 accumulated value of all policy cash flows equals or
5 exceeds the total policy owner value available. For this
6 purpose, policy owner value will include cash surrender
7 values and any other illustrated benefit amounts available
8 at the policy owner's election.

9 10509.954. (a) Each insurer marketing policies to
10 which this chapter is applicable shall notify the
11 commissioner whether a policy form is to be marketed
12 with or without an illustration. For all policy forms being
13 actively marketed on the effective date of this chapter,
14 the insurer shall identify in writing those forms and
15 whether or not an illustration will be used with them. For
16 policy forms filed after the effective date of this chapter,
17 the identification shall be made at the time of filing. Any
18 previous identification may be changed by notice to the
19 commissioner.

20 (b) If the insurer identifies a policy form as one to be
21 marketed without an illustration, any use of an illustration
22 for any policy using that form prior to the first policy
23 anniversary is prohibited.

24 (c) If a policy form is identified by the insurer as one
25 to be marketed with an illustration, a basic illustration
26 prepared and delivered in accordance with this chapter
27 is required, except that a basic illustration need not be
28 provided to individual members of a group or to
29 individuals insured under multiple lives coverage issued
30 to a single applicant unless the coverage is marketed to
31 these individuals. The illustration furnished an applicant
32 for a group life insurance policy or policies issued to a
33 single applicant on multiple lives may be either an
34 individual or composite illustration representative of the
35 coverage on the lives of members of the group or the
36 multiple lives covered.

37 (d) Potential enrollees of non-term group life subject
38 to this chapter shall be furnished a quotation with the
39 enrollment materials. The quotation shall show potential
40 policy values for sample ages and policy years on a



1 guaranteed and non-guaranteed basis appropriate to the
2 group and the coverage. This quotation shall not be
3 considered an illustration for purposes of this regulation,
4 but all information provided shall be consistent with the
5 illustrated scale. A basic illustration shall be provided at
6 delivery of the certificate to enrollees for non-term group
7 life who enroll for more than the minimum premium
8 necessary to provide pure death benefit protection. In
9 addition, the insurer shall make a basic illustration
10 available to any non-term group life enrollee who
11 requests it.

12 10509.955. (a) An illustration used in the sale of a life
13 insurance policy shall satisfy the applicable requirements
14 of this chapter, be clearly labeled “life insurance
15 illustration,” and include, but not be limited to, the
16 following information:

- 17 (1) Name of insurer.
- 18 (2) Name and business address of producer or insurer’s
19 authorized representative, if any.
- 20 (3) Name, age and sex of proposed insured, except
21 where a composite illustration is permitted under this
22 chapter.
- 23 (4) Underwriting or rating classification upon which
24 the illustration is based.
- 25 (5) Generic name of the policy, the company product
26 name, if different, and form number.
- 27 (6) Initial death benefit.
- 28 (7) Dividend option election or application of
29 non-guaranteed elements, if applicable.

30 (b) When using an illustration in the sale of a life
31 insurance policy, an insurer or its producers or other
32 authorized representatives shall not do any of the
33 following:

- 34 (1) Represent the policy as anything other than a life
35 insurance policy.
- 36 (2) Use or describe non-guaranteed elements in a
37 manner that is misleading or has the capacity or tendency
38 to mislead.
- 39 (3) State or imply that the payment or amount of
40 non-guaranteed elements is guaranteed.



- 1 (4) Use an illustration that does not comply with the
2 requirements of this regulation.
- 3 (5) Use an illustration that at any policy duration
4 depicts policy performance more favorable to the policy
5 owner than that produced by the illustrated scale of the
6 insurer whose policy is being illustrated.
- 7 (6) Provide an applicant with an incomplete
8 illustration.
- 9 (7) Represent in any way that premium payments will
10 not be required for each year of the policy in order to
11 maintain the illustrated death benefits, unless that is the
12 fact.
- 13 (8) Use the term “vanishing” or “vanishing
14 premium,” or a similar term that implies the policy
15 becomes paid up, to describe a plan for using
16 non-guaranteed elements to pay a portion of future
17 premiums.
- 18 (9) Except for policies that can never develop
19 nonforfeiture values, use an illustration that is
20 “lapse-supported.”
- 21 (10) Use an illustration that is not “self-supporting.”
- 22 (c) If an interest rate used to determine the illustrated
23 non-guaranteed elements is shown, it shall not be greater
24 than the earned interest rate underlying the disciplined
25 current scale.
- 26 10509.956. (a) A basic illustration shall conform with
27 the following requirements:
 - 28 (1) The illustration shall be labeled with the date on
29 which it was prepared.
 - 30 (2) Each page, including any explanatory notes or
31 pages, shall be numbered and show its relationship to the
32 total number of pages in the illustration.
 - 33 (3) The assumed dates of payment receipt and benefit
34 pay-out within a policy year shall be clearly identified.
 - 35 (4) If the age of the proposed insured is shown as a
36 component of the tabular detail, it shall be issue age plus
37 the numbers of years the policy is assumed to have been
38 in force.
 - 39 (5) The assumed payments on which the illustrated
40 benefits and values are based shall be identified as



1 premium outlay or contract premium, as applicable. For
2 policies that do not require a specific contract premium,
3 the illustrated payments shall be identified as premiums
4 outlay.

5 (6) Guaranteed death benefits and values available
6 upon surrender, if any, for the illustrated premium outlay
7 or contract premium shall be shown and clearly labeled
8 guaranteed.

9 (7) If the illustration shows any non-guaranteed
10 elements, they cannot be based on a scale more favorable
11 to the policy owner than the insurer's illustrated scale at
12 any duration. These elements shall be clearly labeled
13 non-guaranteed.

14 (8) The guaranteed elements, if any, shall be shown
15 before corresponding non-guaranteed elements and shall
16 be specifically referred to on any page of an illustration
17 that shows or describes only the non-guaranteed
18 elements.

19 (9) The account or accumulation value of a policy, if
20 shown, shall be identified by the name this value is given
21 in the policy being illustrated and shown in close
22 proximity to the corresponding value available upon
23 surrender.

24 (10) The value available upon surrender shall be
25 identified by the name this value is given in the policy
26 being illustrated and shall be the amount available to the
27 policy loans and policy loan interest, as applicable.

28 (11) Illustrations may show policy benefits and values
29 in graphic or chart form in addition to the tabular form.

30 (12) Any illustration of non-guaranteed elements shall
31 be accompanied by a statement indicating that:

32 (A) The benefits and values are not guaranteed.

33 (B) The assumptions on which they are based are
34 subject to change by the insurer.

35 (C) Actual results may be or less favorable.

36 (13) If the illustration shows that the premium payer
37 may have the option to allow policy charges to be paid
38 using non-guaranteed values, the illustration shall clearly
39 disclose that a charge continues to be required and that,
40 depending on actual results, the premium payer may



1 need to continue or resume premium outlays. Similar
2 disclosure shall be made for premium outlay of lesser
3 amounts or shorter durations than the contract premium.
4 If a contract premium is due, the premium outlay display
5 shall not be left blank or show zero unless accompanied
6 by an asterisk or similar mark to draw attention to the fact
7 that the policy is not paid up.

8 (14) If the applicant plans to use dividends or policy
9 values, guaranteed or nonguaranteed, to pay all or a
10 portion of the contract premium or policy charges, or for
11 any other purpose, the illustration may reflect those plans
12 and the impact on future policy benefits and values.

13 (b) A basic illustration shall include all of the following:

14 (1) A brief description of the policy being illustrated,
15 including a statement that it is a life insurance policy.

16 (2) A brief description of the premium outlay or
17 contract premium, as applicable, for the policy. For a
18 policy that does not require payment of a specific
19 contract premium, the illustration shall show the
20 premium outlay that must be paid to guarantee coverage
21 for the term of the contract, subject to maximum
22 premiums allowable to qualify as a life insurance policy
23 under the applicable provisions of the Internal Revenue
24 Code.

25 (3) A brief description of any policy features, riders or
26 options, guaranteed or nonguaranteed, shown in the
27 basic illustration and the impact they may have on the
28 benefits and values of the policy.

29 (4) Identification and a brief definition of column
30 headings and key terms used in the illustration.

31 (5) A statement as follows: "This illustration assumes
32 that the currently illustrated nonguaranteed elements
33 will continue unchanged for all years shown. This is not
34 likely to occur, and actual results may be more or less
35 favorable than those shown."

36 (c) (1) Following the narrative summary, a basic
37 illustration shall include a numeric summary of the death
38 benefits and values and the premium outlay and contract
39 premium, as applicable. For a policy that provides for a
40 contract premium, the guaranteed death benefits and



1 values shall be based on the contract premium. This
2 summary shall be shown for at least policy years 5, 10, and
3 20 and at age 70, if applicable, on the three bases shown
4 below. For multiple life policies the summary shall show
5 policy years 5, 10, 20, and 30.

6 (A) Policy guarantees.

7 (B) Insurer's illustrated scale.

8 (C) Insurer's illustrated scale used but with the
9 nonguaranteed elements reduced as follows:

10 (i) Dividends at 50 percent of the dividends contained
11 in the illustrated scale used.

12 (ii) Nonguaranteed credited interest at rates that are
13 the average of the guaranteed rates and the rates
14 contained in the illustrated scale used.

15 (iii) All nonguaranteed charges, including but not
16 limited to, term insurance charges, mortality and expense
17 charges, at rates that are the average of the guaranteed
18 rates and the rates contained in the illustrated scale used.

19 (2) In addition, if coverage would cease prior to policy
20 maturity or age 100, the year in which coverage ceases
21 shall be identified for each of the three bases.

22 (d) Statements substantially similar to the following
23 shall be included on the same page as the numeric
24 summary and signed by the applicant, or the policy owner
25 in the case of an illustration provided at time of delivery,
26 as required in this regulation.

27 (1) A statement to be signed and dated by the
28 applicant or policy owner reading as follows: "I have
29 received a copy of this illustration and understand that
30 any nonguaranteed elements illustrated are subject to
31 change and could be either higher or lower. The agent
32 has told me they are not guaranteed."

33 (2) A statement to be signed and dated by the
34 insurance producer or other authorized representative of
35 the insurer reading as follows: "I certify that this
36 illustration has been presented to the applicant and that
37 I have explained that any nonguaranteed elements
38 illustrated are subject to change. I have made no
39 statements that are inconsistent with the illustration."



1 (e) (1) A basic illustration shall include the following
2 information for at least each policy year from 1 to 10 and
3 for every fifth policy year thereafter ending at age 100,
4 policy maturity or final expiration; and except for term
5 insurance beyond the 20th year, for any year in which the
6 premium outlay and contract premium, if applicable, is
7 to change:

8 (A) The premium outlay and mode the applicant
9 plans to pay and the contract premium, as applicable.

10 (B) The corresponding guaranteed death benefit, as
11 provided in the policy.

12 (C) The corresponding guaranteed value available
13 upon surrender, as provided in the policy.

14 (2) For a policy that provides for a contract premium,
15 the guaranteed death benefit and value available upon
16 surrender shall correspond to the contract premium.

17 (3) Nonguaranteed elements may be shown if
18 described in the contract. In the case of an illustration for
19 a policy on which the insurer intends to credit terminal
20 dividends, they may be shown if the insurer's current
21 practice is to pay terminal dividends. If any
22 nonguaranteed elements are shown they must be shown
23 at the same durations as the corresponding guaranteed
24 elements, if any. If no guaranteed benefit or value is
25 available at any duration for which a nonguaranteed
26 benefit or value is shown, a zero shall be displayed in the
27 guaranteed column.

28 10509.957. (a) A supplemental illustration may be
29 provided if it meets all of the following requirements:

30 (1) It is appended to, accompanied by, or preceded by
31 a basic illustration that complies with this chapter.

32 (2) The nonguaranteed elements shown are not more
33 favorable to the policy owner than the corresponding
34 elements based on the scale used in the basic illustration.

35 (3) It contains the same statement as required of a
36 basic illustration under subdivision (d) of Section
37 10509.956 that nonguaranteed elements are not
38 guaranteed.

39 (4) For a policy that has a contract premium, the
40 contract premium underlying the supplemental



1 illustration is equal to the contract premium shown in the
2 basic illustration. For policies that do not require a
3 contract premium, the premium outlay underlying the
4 supplemental illustration shall be equal to the premium
5 outlay shown in the basic illustration.

6 (b) The supplemental illustration shall include a
7 notice referring to the basic illustration for guaranteed
8 elements and other important information.

9 10509.958. (a) (1) If a basic illustration is used by an
10 insurance producer or other authorized representative of
11 the insurer in the sale of a life insurance policy and the
12 policy is applied for as illustrated, a copy of that
13 illustration, signed in accordance with this chapter, shall
14 be submitted to the insurer at the time of the policy
15 application. A copy also shall be provided to the applicant.

16 (2) If the policy is issued other than as applied for, a
17 revised basic illustration conforming to the policy as
18 issued shall be sent with the policy. The revised
19 illustration shall conform to the requirements of this
20 chapter, shall be labeled “Revised Illustration” and shall
21 be signed and dated by the applicant or policy owner and
22 producer or other authorized representative of the
23 insurer no later than the time the policy is delivered. A
24 copy shall be provided to the insurer and the policy
25 owner.

26 (b) (1) If no illustration is used by an insurance
27 producer or other authorized representative in the sale
28 of a life insurance policy or if the policy is applied for other
29 than as illustrated, the producer or representative shall
30 certify to that effect in writing on a form provided by the
31 insurer. On the same form the applicant shall
32 acknowledge that no illustration conforming to the policy
33 applied for was provided and shall further acknowledge
34 an understanding that an illustration conforming to the
35 policy as issued will be provided no later than at the time
36 of policy delivery. This form shall be submitted to the
37 insurer at the time of policy application.

38 (2) If the policy is issued, a basic illustration
39 conforming to the policy as issued shall be sent with the
40 policy and signed no later than the time the policy is



1 delivered. A copy shall be provided to the insurer and the
2 policy owner.

3 (c) If the basic illustration or revised illustration is sent
4 by the insurer to the applicant or policy owner by mail,
5 it shall include instructions for the applicant or policy
6 owner to sign the duplicate copy of the numeric summary
7 page of the illustration for the policy issued and return the
8 signed copy to the insurer. The insurer’s obligation under
9 this subdivision shall be satisfied if it can demonstrate that
10 it has made a diligent effort to secure a signed copy of the
11 numeric summary page. The requirement to make a
12 diligent effort shall be deemed satisfied if the insurer
13 includes in the mailing a self-addressed postage prepaid
14 envelope with instructions for the return of the signed
15 numeric summary page.

16 (d) A copy of the basic illustration and a revised basic
17 illustration, if any, signed as applicable, along with any
18 certification that either no illustration was used or that
19 the policy was applied for other than as illustrated, shall
20 be retained by the insurer until three years after the
21 policy is no longer in force. A copy need not be retained
22 if no policy is issued.

23 10509.959. (a) In the case of a policy designated as
24 one for which illustrations will be used, the insurer shall
25 provide each policy owner with an annual report on the
26 status of the policy that shall include, but not be limited
27 to, the following information:

28 (1) For universal life policies, the report shall include
29 the following:

30 (A) The beginning and end date of the current report
31 period.

32 (B) The policy value at the end of the previous report
33 period and at the end of the current report period.

34 (C) The total amounts that have been credited or
35 debited to the policy value during the current report
36 period, identifying each by type, including, but not
37 limited to, interest, mortality, expense and riders.

38 (D) The current death benefit at the end of the
39 current report period on each life covered by the policy.



1 (E) The net cash surrender value of the policy as of the
2 end of the current report period.

3 (F) The amount of outstanding loans, if any, as of the
4 end of the current report period.

5 (G) For fixed premium policies:

6 If, assuming guaranteed interest, mortality and
7 expense loads and continued scheduled premium
8 payments, the policy's net cash surrender value is such
9 that it would not maintain insurance in force until the end
10 of the next reporting period, a notice to this effect shall
11 be included in the report.

12 (H) For flexible premium policies:

13 If, assuming guaranteed interest, mortality and
14 expense loads, the policy's net cash surrender value will
15 not maintain insurance in force until the end of the next
16 reporting period unless further premium payments are
17 made, a notice to this effect shall be included in the
18 report.

19 (2) For all other policies, the report shall include the
20 following, where applicable:

21 (A) Current death benefit.

22 (B) Annual contract premium.

23 (C) Current cash surrender value.

24 (D) Current dividend.

25 (E) Application of current dividend.

26 (F) Amount of outstanding loan.

27 (3) Insurers writing life insurance policies that do not
28 build nonforfeiture values shall only be required to
29 provide an annual report with respect to these policies for
30 those years when a change has been made to
31 nonguaranteed policy elements by the insurer.

32 (b) If the annual report does not include an in force
33 illustration, it shall contain the following notice displayed
34 prominently: "IMPORTANT POLICY OWNER
35 NOTICE: You should consider requesting more detailed
36 information about your policy to understand how it may
37 perform in the future. You should not consider
38 replacement of your policy or make changes in your
39 coverage without requesting a current illustration. You
40 may annually request, without charge, such an



1 illustration by calling [insurer's phone number], writing
2 to [insurer's address] or contacting your agent. If you do
3 not receive a current illustration of your policy within
4 thirty days from your request, you should contact your
5 state insurance department." The insurer may vary the
6 sequential order of the methods for obtaining an in force
7 illustration.

8 (c) Upon the request of the policy owner, the insurer
9 shall furnish an in force illustration of current an future
10 benefits and values based on the insurer's present
11 illustrated scale. This illustration shall comply with the
12 requirements of subdivisions (a) and (b) of Section
13 10509.955 and subdivisions (a) and (e) of Section
14 10509.956. No signature or other acknowledgment of
15 receipt of this illustration shall be required.

16 (d) If an adverse change in non-guaranteed elements
17 that could affect the policy has been made by the insurer
18 since the last annual report, the annual report shall
19 contain a notice of that fact and the nature of the change
20 prominently displayed.

21 10509.960. (a) The board of directors of each insurer
22 shall appoint one or more illustration actuaries.

23 (b) The illustration actuary shall certify that the
24 disciplined current scale used in illustrations is in
25 conformity with the Actuarial Standard of Practice for
26 Compliance with the NAIC Model Regulation on Life
27 Insurance Illustrations promulgated by the Actuarial
28 Standards Board, and that the illustrated scales used in
29 insurer-authorized illustrations meet the requirements of
30 this chapter.

31 (c) The illustration actuary shall comply with all of the
32 following:

33 (1) Be a member in good standing of the American
34 Academy of Actuaries.

35 (2) Be familiar with the standard of practice regarding
36 life insurance policy illustrations.

37 (3) Not been found by the commissioner, following
38 appropriate notice and hearing, to have engaged in or
39 committed any of the following acts:



1 (A) Violated any provision of, or any obligation
2 imposed by, the insurance law or other law in the course
3 of his or her dealings as an illustration actuary.

4 (B) Been found guilty of fraudulent or dishonest
5 practices.

6 (C) Demonstrated his or her incompetence, lack of
7 cooperation, or untrustworthiness to act as an illustration
8 actuary.

9 (D) Resigned or been removed as an illustration
10 actuary within the past five years as a result of acts or
11 omissions indicated in any adverse report on examination
12 or as a result of a failure to adhere to generally acceptable
13 actuarial standards.

14 (4) Notify the commissioner of any acts engaged in or
15 committed in another state that are similar those
16 described in paragraph (3).

17 (5) Disclose in the annual certification whether, since
18 the last certification, a currently payable scale applicable
19 for business issued within the previous five years and
20 within the scope of the certification has been reduced for
21 reasons other than changes in the experience factors
22 underlying the disciplined current scale. Nonguaranteed
23 elements illustrated for new policies that are not
24 consistent with those illustrated for similar in force
25 policies shall be disclosed in the annual certification.
26 Nonguaranteed elements illustrated for both new and in
27 force policies that are not consistent with the
28 nonguaranteed elements actually being paid, charged or
29 credited to the same or similar forms shall be disclosed in
30 the annual certification.

31 (6) Disclose in the annual certification the method
32 used to allocate overhead expenses for all illustrations
33 including:

34 (A) Fully allocated expenses.

35 (B) Marginal expenses.

36 (C) A generally recognized expense table based on
37 fully allocated expenses representing a significant portion
38 of insurance companies and approved by the
39 commissioner.



1 (d) (1) The illustration actuary shall file a
2 certification with the Actuarial Standards Board and with
3 the commissioner as follows:

4 (A) Annually for all policy forms for which illustrations
5 are used.

6 (B) Before a new policy form is illustrated.

7 (2) If an error in a pervious certification is discovered,
8 the illustration actuary shall notify the board of directors
9 of the insurer and the commissioner promptly.

10 (e) If an illustration actuary is unable to certify the
11 scale for any policy form illustration the insurer intends
12 to use, the actuary shall notify the board of directors of the
13 insurer and the commissioner promptly of his or her
14 inability to certify.

15 (f) A responsible officer of the insurer, other than the
16 illustration actuary, shall certify annually the following:

17 (1) The illustration formats meet the requirements of
18 this chapter and the scales used in insurer-authorized
19 illustrations are those scales certified by the illustration
20 actuary.

21 (2) The company provided its agents with information
22 about the expense allocation method used by the
23 company in its illustrations and complied with the
24 disclosure requirements of paragraph (6) of subdivision
25 (c).

26 (g) The annual certifications shall be provided to the
27 commissioner each year by a date determined by the
28 insurer.

29 (h) If an insurer changes the illustration actuary
30 responsible for all or a portion of the company's policy
31 forms, the insurer shall notify the commissioner of that
32 fact promptly and disclose the reason for the change.

33 10509.961. In addition to any other penalties provided
34 by law, an insurer or producer that violates any provision
35 of this chapter shall be subject to Section 790.06.

36 10509.962. The provisions of this chapter are
37 severable. If any provision of this chapter or its
38 application is held invalid, that invalidity shall not affect
39 other provisions or applications that can be given effect
40 without the invalid provision or application.



1 10509.963. This chapter shall become effective on and
2 after January 1, 1998, and shall apply to policies sold on or
3 after that date.

4 SEC. 2. Chapter 5.6 (commencing with Section
5 10509.970) is added to Part 2 of Division 2 of the Insurance
6 Code, to read:

7

8 CHAPTER 5.6. LIFE INSURANCE SURRENDER COST INDEX

9

10 10509.970. It is the purpose of this chapter to assure
11 prospective purchasers of life insurance that, when a
12 presentation is made showing or comparing the cost of
13 life insurance over a period of years which does not
14 recognize the time value of money, it shall be
15 accompanied by a presentation which recognizes the
16 time value of money.

17 10509.971. (a) If, in connection with the selling of life
18 insurance to which this chapter applies, an agent or
19 insurer makes a presentation showing or comparing the
20 cost of life insurance over a period of years which does not
21 recognize the time value of money, the agent or insurer
22 shall at the same time present the Life Insurance
23 Surrender Cost Index which shall be calculated for both
24 a 10-year and a 20-year period.

25 (b) An agent or insurer may use any other system or
26 form of presentation for comparing the cost of life
27 insurance over a period of years which recognizes the
28 time value of money, including the Life Insurance
29 Surrender Cost Index computed at an interest rate other
30 than 5 percent.

31 (c) If the Life Insurance Surrender Cost Index is used,
32 it need not be provided for a period which extends
33 beyond the end of the premium payment period for the
34 plan. The Life Insurance Surrender Cost Index shall be
35 accompanied by an explanation substantially to the effect
36 that the Life Insurance Surrender Cost Index is a measure
37 of the relative cost of similar plans of insurance, and that
38 a low Life Insurance Surrender Cost Index number
39 represents a lower cost than a higher Life Insurance



1 Surrender Cost Index number in the event the policy was
2 surrendered at the end of the period designated.

3 10509.972. (a) The Life Insurance Surrender Cost
4 Comparison Index for level premium plans of insurance
5 shall be calculated by applying the steps in the following
6 paragraphs:

7 (1) Select either a 10-year or a 20-year period,
8 commencing with the first year of the policy, over which
9 the analysis is to be made.

10 (2) Determine the cash value, and terminal dividend,
11 if any, available at the end of the period selected.

12 (3) For participating policies, accumulate the annual
13 dividends at 5 percent interest compounded annually to
14 the end of the period selected and add this accumulation
15 to the amount in paragraph (2).

16 (4) Divide the amount in paragraph (3), or the
17 amount in paragraph (2) for nonparticipating policies, by
18 an interest factor that converts it into a level annual
19 amount accruing over the period selected in paragraph
20 (1). If the period is 10 years, this factor is 13.207, and if the
21 period is 20 years, the factor is 34.719.

22 (5) Subtract the amount in paragraph (4) from the
23 annual premium payable.

24 (6) Divide the amount in paragraph (5) by the
25 number of thousands of the amount of insurance to arrive
26 at the Life Insurance Surrender Cost Index.

27 (b) The Life Insurance Surrender Cost Comparison
28 Index for plans of insurance with premiums which are not
29 level shall be calculated as follows:

30 (1) Select either a 10-year or a 20-year period,
31 commencing with the first year of the policy, over which
32 the analysis is to be made.

33 (2) Determine the cash value, and terminal dividend,
34 if any, available at the end of the period selected.

35 (3) For participating policies, accumulate the annual
36 dividends at 5 percent interest compounded annually to
37 the end of the period selected and add this accumulation
38 to the amount in paragraph (2).

39 (4) Divide the amount in paragraph (3), or the
40 amount in paragraph (2) for nonparticipating policies, by



1 an interest factor that converts it into a level annual
2 amount accruing over the period selected in paragraph
3 (1). If the period is 10 years, this factor is 13.207, and if the
4 period is 20 years, the factor is 34.719.

5 (5) Subtract the amount in paragraph (4) from the
6 equivalent level premium determined by accumulating
7 the annual premium payable at 5 percent interest
8 compounded annually to the end of the period in
9 paragraph (1) and dividing the result by the factor stated
10 in paragraph (4).

11 (6) Divide the amount in paragraph (5) by the
12 number of thousands of the amount of insurance to arrive
13 at the Life Insurance Surrender Cost Comparison Index.

14 10509.973. Any comparison must be used with caution
15 and should not be emphasized to the point that actual
16 premiums and policy benefits are overshadowed. Only
17 similar plans of insurance should be compared. Any
18 dividend used in calculating the Life Insurance
19 Surrender Cost Comparison Index shall be based on the
20 current dividend scale in actual use by the insurer. With
21 respect to participating policies, care must be taken to
22 describe the policy dividend as a refund or return of part
23 of the premium paid, which is not guaranteed and which
24 is dependent on the investment earnings, mortality
25 experience, and expense experience of the insurer.

26 10509.974. (a) Except as provided in paragraph (b)
27 of this section, this chapter shall apply to any solicitation,
28 negotiation, or procurement of life insurance occurring
29 within this state.

30 (b) This chapter shall not apply to:

31 (1) Annuities.

32 (2) Credit life insurance.

33 (3) Franchise life insurance.

34 (4) Group or blanket life insurance.

35 (5) Term life insurance.

36 (6) Plans of life insurance with benefits which vary by
37 policy duration, including retirement income plans and
38 variable life insurance.

39 (7) Benefits which are supplemental to basic life
40 insurance benefits, such as accidental death and



1 dismemberment, waiver of premium or guaranteed
2 insurability benefits if the cost of any of these benefits are
3 included in the price of the basic life insurance without
4 separate identifiable charge, then in calculating the Life
5 Insurance Surrender Cost Comparison Index a
6 reasonable adjustment in the annual premium payable on
7 a per one thousand dollars (\$1,000) basis may be made.

8 (8) Benefits purchased by a special option applicable
9 to dividends.

10 (9) Life insurance policies where the face amount of
11 insurance is five thousand dollars (\$5,000) or less.

12 (10) Life insurance on substandard risks.

13 (11) Life insurance policies issued in connection with
14 split funded pension trust plans.

15 SEC. 3. It is the intent of the Legislature that Chapter
16 5.6 (commencing with Section 10509.970) as added to
17 Part 2 of Division 2 of the Insurance Code by Section 2 of
18 this act, shall supersede and render inoperative, as of
19 January 1, 1997, the provisions of Article 12.6
20 (commencing with Section 2546) of Subchapter 2 of
21 Chapter 5 of Title 10 of the California Code of
22 Regulations.

