

Assembly Bill No. 3313

CHAPTER 350

An act to amend Section 11622.5 of the Insurance Code, relating to insurance.

[Approved by Governor August 17, 1996. Filed with
Secretary of State August 19, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3313, Brewer. Insurance: assigned risk plans.

Existing law provides for the formation of an assigned risk plan for automobile bodily injury and property damage liability insurance. The plan apportions eligible applicants for insurance coverage among insurers admitted to transact liability insurance. Effective dates of coverage under the assigned risk plan are determined in part by an electronic effective date procedure established by the plan.

This bill would modify certain provisions relating to effective dates under the electronic effective date procedure and make other related changes.

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

SECTION 1. Section 11622.5 of the Insurance Code is amended to read:

11622.5. The plan shall provide for effective dates for coverage consistent with all of the following:

(a) Except as provided in this section, in no event shall coverage be effective prior to the date and time of execution of the application forms. Postage meter or United States Postal Service postmarks shall not be recognized by the plan as establishing effective dates.

(b) (1) Beginning July 1, 1995, when the applicant requires that coverage be effective immediately, the effective date and time shall be established using an electronic effective date procedure established by the plan. The plan shall establish a future effective date using the electronic effective date procedure. The future effective date option shall be available upon request by an applicant. An applicant may request a future effective date of 15 days or less from the date of application completion.

(2) The manager of the plan shall establish and maintain a toll-free telephone number as part of the electronic effective date procedure. The manager shall maintain sufficient capacity to service, in a timely manner, applications received by means of the electronic effective date procedure.



(3) The electronic effective date procedure shall be available only to producers of record who are certified by the plan.

(4) A producer of record shall have a duty to comply with the requirements of this section within 24 hours of the date and time the application is completed and executed.

(c) Coverage for vehicles shall become effective at the date and time the application is transmitted through the plan's electronic effective date procedure if and only if all of the following requirements are met:

(1) The producer of record and the applicant certify under penalty of perjury on the application the date and time that the application forms were completed and executed.

(2) The producer of record uses the electronic effective date procedure adopted pursuant to subdivision (b) and inserts the reference number or other required verification code on the application.

(3) The application forms and required deposit are mailed to the plan manager no later than two working days following the date the application forms are completed and executed. The mailing date is established by the United States Postal Service postmark on the envelope enclosing the application.

(d) If the application is made without using the electronic effective date procedure or if there is not compliance with the provisions of subdivision (c), coverage shall be effective as of 12:01 a.m. on the date following receipt of the application in the plan office unless a later date is requested.

(e) If the applicant desires coverage on a date later than that which would otherwise be fixed pursuant to this section, the applicant shall indicate that date and the plan manager shall fix the effective date of coverage as of 12:01 a.m. on the desired date of coverage. However, no date shall be later than 45 days after the date of application.

(f) The effective date for coverage for an additional vehicle to be added to an in-force policy or for other coverage to be added to an in-force policy shall not be subject to the requirements of this section, but shall be governed by the terms of the policy and other applicable laws and regulations.

(g) In order to provide evidence of a requested effective date, the producer of record shall maintain appropriate records of all risks for which he or she has designated the time and date of coverage. That evidence shall be in the form of completed applications, eligibility certification forms, a mail log, a check copy, a check register, a receipt, and other records created contemporaneously with the application, and shall permit inspection or photocopying of those records by the plan manager or the assigned insurer. The inspection or photocopying shall be limited to situations where the effective date is an issue.



(h) Where the plan's electronic effective date procedure is disrupted due to failure of transmission or receiving equipment due to fire, earthquake, explosion, civil unrest, or similar disaster or emergency, the producer of record may bind coverage up to one day prior to the time the application forms and required deposit are mailed to the plan manager, as established by the United States Postal Service postmark on the envelope in which the application was enclosed.

(i) Notwithstanding any other provision of this section, where the producer of record discovers a material error in an application, the producer of record shall be authorized to rescind coverage bound for a period up to 24 hours after the date and time established pursuant to the plan's electronic effective date procedure.

(j) To ensure compliance with the electronic effective date procedure, application forms shall contain the following statement in 12-point boldface type:

IMPORTANT NOTICE

THIS POLICY IS NOT EFFECTIVE UNTIL YOUR APPLICATION IS ELECTRONICALLY TRANSMITTED TO THE PLAN BY YOUR AGENT OR BROKER. THE FOLLOWING CONDITIONS MUST ALSO BE MET:

(1) BOTH YOU AND YOUR AGENT OR BROKER MUST SIGN AND DATE A PROPERLY COMPLETED APPLICATION.

(2) YOUR AGENT OR BROKER MUST MAIL YOUR APPLICATION TO THE PLAN WITHIN TWO DAYS OF ITS COMPLETION.

YOU MAY REQUEST THAT YOUR AGENT OR BROKER TRANSMIT THE DOCUMENTS IN YOUR PRESENCE TO ENSURE IMMEDIATE COVERAGE, PROVIDED THE ABOVE REQUIREMENTS ARE MET.

IF THE ABOVE REQUIREMENTS ARE NOT MET, YOUR COVERAGE WILL TAKE EFFECT THE DAY AFTER THE PLAN OFFICE RECEIVES YOUR APPLICATION. YOU MAY REQUEST THAT YOUR AGENT OR BROKER NOTIFY YOU WHEN YOUR COVERAGE IS EFFECTIVE.

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