Date of Hearing: June 24, 2019

ASSEMBLY COMMITTEE ON BANKING AND FINANCE
Monique Limón, Chair
SB 540 (Jones) – As Amended April 30, 2019

SENATE VOTE: 31-4

SUBJECT: Nonprofit public benefit corporations

SUMMARY: Allows nonprofit corporations to offer split-dollar life insurance policies as compensation when secured by the cash value or death benefit, instead of both the cash value and death benefit. Specifically, **this bill**:

1) Modifies the exception to allow a nonprofit public benefit corporation to pay life insurance premiums for a director or officer of that corporation, if repayment of those premiums is secured by *either* the policy's death benefit *or* its cash surrender value, or both.

2) Provides that when repayment of a loan described immediately above is secured by only the policy's death benefit, the contract between the corporation and the director or officer that secures the loan must include terms sufficient to ensure that any policy fees and charges, withdrawals of the cash value, or loans taken against it do not impair the value of the death benefit to repay the cost of the loan, for the life of the policy.

EXISTING LAW:

FISCAL EFFECT: Legislative Counsel has determined that this bill is non-fiscal.

COMMENTS:

This bill is sponsored by the author to align a provision of California law applicable to nonprofit public benefit corporations with the language of an Internal Revenue Service regulation governing the tax treatment of split-dollar life insurance arrangements.

Split-Dollar Life Insurance:

Existing law allows nonprofit public benefit corporations to pay life insurance premiums for a director or officer of that corporation, as long as there is a mechanism to repay the corporation from the life insurance policy. One tool available to corporations wishing to recruit and retain high-value employees is a so-called split-dollar life insurance policy. When such a policy is used, the employer and employee execute an agreement, separate from the life insurance policy, which outlines how the employer and employee will share the premium cost, cash value, and death benefit of the life insurance policy. This bill's proponents state that the vast majority of policies set up under a split-dollar agreement are for permanent life insurance policies, usually indexed universal life.

The language of this bill revises the Corporations Code to more closely match IRS regulations allowing *either* the death benefit *or* the cash surrender value of the life insurance policy to secure repayment of the life insurance premiums paid by the corporation. According to the author's office, the existing law requirement to secure the corporation's loan with both the death benefit *and* the cash surrender value makes the life insurance policy less beneficial to the officer or director, and thus less valuable for the nonprofit to use as a recruitment or retention tool. By allowing the corporation's loan to be secured only by the death benefit, the corporation can offer officers and directors a portion of the policy's cash surrender value, increasing the attractiveness of the policy as a recruitment or retention tool.

Support: The Association of California Life and Health Insurance Companies supports the bill on the basis that it will help enhance the recruitment and retention of key employees, and in doing so produce a better business climate.

REGISTERED SUPPORT / OPPOSITION:

Support

California Life and Health Insurance Companies

Opposition

None on file

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