

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001
4

As Engrossed: S3/19/01
A Bill

HOUSE BILL 1954

5 By: Representative Biggs
6
7

8 **For An Act To Be Entitled**

9 AN OMNIBUS ACT TO AMEND VARIOUS SECTIONS AND
10 SUBSECTIONS OF CHAPTERS 81 AND 83 OF TITLE 23 OF
11 THE ARKANSAS INSURANCE CODE RELATING TO LIFE AND
12 ANNUITY INSURANCE; AND FOR OTHER PURPOSES.
13

14 **Subtitle**

15 AN ACT TO AMEND THE ARKANSAS INSURANCE
16 CODE RELATING TO LIFE AND ANNUITY
17 INSURANCE, AND TO BE REFERRED TO AS THE
18 "LIFE INSURANCE OMNIBUS BILL".
19
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 SECTION 1. Arkansas Code 23-81-105, concerning incontestability
24 provisions, is amended to read as follows:

25 23-81-105. Life insurance - Incontestability provision.

26 There shall be a provision that, except for fraud in the procurement,
27 the policy, exclusive of provisions relating to disability benefits or to
28 additional benefits in the event of death by accident or accidental means,
29 shall be incontestable, except for nonpayment of premiums, after it has been
30 in force during the lifetime of the insured for a period of two (2) years
31 from its date of issue. However, the insurer may, at its option, omit from
32 the provision the phrase "except for fraud in the procurement".
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34 SECTION 2. The catchline of Arkansas Code 23-81-118, concerning
35 payment of life insurance proceeds and return of premiums, is amended to read
36 as follows:

1 23-81-118. Life insurance - Refund of certain premiums ~~with~~ and
2 payment of proceeds.

3
4 SECTION 3. Arkansas Code 23-81-123, concerning annuity and pure
5 endowment contracts and incontestability provisions, is amended to read as
6 follows:

7 23-81-123. Annuity and pure endowment contracts - Incontestability
8 provision.

9 If any statements, other than those relating to age, sex, and identity
10 are required as a condition to issuing an annuity or pure endowment contract,
11 other than reversionary, survivorship, or group annuity, and subject to § 23-
12 81-125, there shall be a provision that, except for fraud in the procurement,
13 the contract shall be incontestable after it has been in force during the
14 lifetime of the person or of each of the persons as to whom the statements
15 are required, for a period of two (2) years from its date of issue except for
16 nonpayment of stipulated payments to the insurer. At the option of the
17 insurer, the contract may also except any provisions relative to benefits in
18 the event of disability and any provisions which grant insurance specifically
19 against death by accident or accidental means. Furthermore, the insurer may,
20 at its option, omit from the provision the phrase "except for fraud in the
21 procurement".

22
23 SECTION 4. Arkansas Code 23-81-405, concerning the Insurance
24 Commissioner's authority to regulate variable contracts, is amended to read
25 as follows:

26 23-81-405. Commissioner's authority to regulate.

27 Notwithstanding any other provision of law, the ~~Insurance Commissioner~~
28 commissioner shall have sole authority to regulate the issuance and sale of
29 variable contracts and to issue such reasonable rules and regulations as may
30 be appropriate to carry out the purposes and provisions of this subchapter.

31
32 SECTION 5. Arkansas Code 23-81-502(B)(2) is amended to read as
33 follows:

34 (2) Shall not include any individual otherwise meeting the
35 requirements of the preceding ~~subdivision~~ subsection unless within the
36 preceding twelve (12) month period a licensed health care practitioner has

1 certified that such individual meets such requirements.

2

3 SECTION 6. Arkansas Code 23-81-508A, concerning required disclosures
4 to viators by viatical settlement providers, is amended to read as follows:

5 A. Possible alternatives to viatical settlement contracts for persons
6 with ~~Terminal~~ terminal or ~~Chronic~~ chronic illnesses, including, but not
7 limited to, accelerated benefits offered by the issuer of the life insurance
8 policy;

9

10 SECTION 7. Arkansas Code 23-81-509A, concerning general rules
11 respecting viatical settlement providers, is amended to read as follows:

12 A. A viatical settlement provider entering into a viatical settlement
13 contract with any person with a ~~Terminal~~ terminal or ~~Chronic Illness~~ chronic
14 illness or condition shall first obtain:

15

16 SECTION 8. Arkansas Code 23-81-509A(2)(b), concerning general rules
17 respecting viatical settlement providers, is amended to read as follows:

18 (b) Acknowledges the ~~Terminal~~ terminal or ~~Chronic Illness~~
19 chronic illness;

20

21 SECTION 9. Arkansas Code 23-83-108, concerning restrictions of group
22 life insurance coverage on spouses and dependent children, is amended to read
23 as follows:

24 23-83-108. Restrictions on coverage of spouse and dependent children
25 of group member.

26 Except for a policy issued under § 23-83-105(a), a group policy,
27 excluding an annuity policy, may be extended to insure the employees or
28 members against loss due to the death of their spouses and dependent
29 children, or any classes thereof, subject to the following:

30 (1) The premium for the insurance shall be paid either from
31 funds contributed by the employer, union, association, or other person to
32 whom the policy has been issued, or from funds contributed by the covered
33 persons, or from both. Except as provided in ~~subdivision~~ subsection (2) of
34 this section, a policy on which no part of the premium for the spouse's and
35 dependent child's coverage is to be derived from funds contributed by the
36 covered persons must insure all eligible employees or members with respect to

1 their spouses and dependent children, or any class or classes thereof, unless
2 rejected in writing by the employee or member; and

3 (2) An insurer may exclude or limit the coverage on any spouse
4 or dependent child as to whom evidence of individual insurability is not
5 satisfactory to the insurer; ~~and~~

6 ~~(3) The amounts of insurance for any covered spouse or dependent~~
7 ~~child under the policy may not exceed fifty percent (50%) of the amount of~~
8 ~~insurance for which the employee or member is insured.~~

9
10 SECTION 10. Arkansas Code 23-83-111(a), concerning group life
11 insurance incontestability provisions, is amended to read as follows:

12 (a) The group policy shall contain a provision that the validity of
13 the policy shall not be contested except for fraud in the procurement or
14 nonpayment of premiums after it has been in force for two (2) years from its
15 date of issue and that no statement made by any person insured under the
16 policy relating to his insurability shall be used in contesting the validity
17 of the insurance with respect to which the statement was made after the
18 insurance has been in force prior to the contest for a period of two (2)
19 years during the person's lifetime nor unless it is contained in a written
20 instrument signed by him. However, the insurer may, at its option, omit from
21 the provision the phrase "except for fraud in the procurement".

22
23 SECTION 11. Arkansas Code 23-83-115, concerning payment of benefits
24 under a group life insurance policy, is amended to read as follows:

25 23-83-115. Payment of benefits provision.

26 A group policy shall contain a provision that any sum becoming due by
27 reason of the death of the person insured shall be payable to the beneficiary
28 designated by the person insured. However, where the policy contains
29 conditions pertaining to family status, the beneficiary may be the family
30 member specified by the policy terms, as to all or any part of such sum,
31 subject to the provisions of the policy in the event there is no designated
32 beneficiary, living at the death of the person insured, and subject to any
33 right reserved by the insurer in the policy and set forth in the certificate
34 to pay at its option a part of the sum not exceeding ~~two thousand dollars~~
35 ~~(\$2,000)~~ ten thousand dollars (\$10,000) to any person appearing to the
36 insurer to be equitably entitled thereto by reason of having incurred funeral

1 or other expenses incident to the last illness or death of the person
2 insured.

3

4 SECTION 12. Arkansas Code 23-83-117, concerning conversion from a
5 group life insurance policy upon termination of eligibility, is amended to
6 read as follows:

7 23-83-117. Conversion on termination of eligibility provision.

8 A group policy, excluding an annuity policy, shall contain a provision
9 that if the insurance, or any portion of it, on a person covered under the
10 policy or on the dependent of a person covered, ceases because of termination
11 of employment or of membership in the classes eligible for coverage under the
12 policy, the persons shall be entitled to have issued to them by the insurer,
13 without evidence of insurability, an individual policy of life insurance
14 without disability or other supplementary benefits. However, an application
15 for the individual policy shall be made by the person covered under the
16 policy or the dependent of the covered person, and the first premium paid to
17 the insurer, within thirty-one (31) days after the termination and in
18 addition:

19 ~~(1)(a)~~ The individual policy shall, at the option of ~~the person~~
20 such persons, be on any one (1) of the forms then customarily issued by the
21 insurer at the age and for the amount applied for, except that the group
22 policy may exclude the option to elect term insurance;

23 ~~(2)~~ (b) The individual policy shall be in an amount not in
24 excess of the amount of life insurance which ceases because of the
25 termination, less the amount of any life insurance for which the person
26 becomes eligible under the same or any other group policy within thirty-one
27 (31) days after the termination. However, any amount of insurance which
28 shall have matured on or before the date of the termination as an endowment
29 payable to the person insured, whether in one (1) sum or in installments or
30 in the form of an annuity, shall not, for the purposes of this provision, be
31 included in the amount which is considered to cease because of the
32 termination;

33 ~~(3)(c)~~ The premium on the individual policy shall be at the
34 insurer's then-customary rate applicable to the form and amount of the
35 individual policy, to the class of risk to which ~~the~~ such person then
36 belongs, and to his age attained on the effective date of the individual

1 policy; and

2 ~~(4)(d)~~ Subject to the same conditions set forth above, the
3 conversion privilege shall be available:

4 ~~(A)(1)~~ To a surviving covered dependent, if any, at the
5 death of the ~~employee or member~~ covered person, with respect to the coverage
6 under the group policy which terminates by reason of the death; and

7 ~~(B)(2)~~ To the covered dependent of the ~~employee or member~~
8 person upon termination of coverage of the dependent, while the ~~employee or~~
9 ~~member~~ covered person remains insured under the group policy, by reason of
10 the dependent ceasing to be a qualified family member under the group policy.

11

12 SECTION 13. Arkansas Code 23-83-122, concerning notices and conversion
13 rights, is amended to read as follows:

14 23-83-122. Notice as to conversion right.

15 (a) If any individual insured under a group policy, excluding an
16 annuity policy, hereafter delivered in this state becomes entitled under the
17 terms of the policy to have an individual policy of life insurance issued to
18 him without evidence of insurability, subject to making of application and
19 payment of the first premium by the individual within the period specified in
20 the policy and if the individual is not given notice of the existence of the
21 right at least fifteen (15) days prior to the expiration date of the period,
22 then the individual shall have an additional period within which to exercise
23 that right. Nothing in this subsection shall be construed to continue any
24 insurance beyond the period provided in the policy.

25 ~~(b) This additional period shall expire fifteen (15) days next after~~
26 ~~the individual is given the notice but in no event shall the additional~~
27 ~~period extend beyond sixty (60) days next after the expiration date of the~~
28 ~~period provided in the policy.~~

29 ~~(c)(b)~~ Written notice presented to the individual or mailed by the
30 policyholder to the last known address of the individual or mailed by the
31 insurer to the last known address of the individual as furnished by the
32 policyholder shall constitute notice for the purpose of this section.

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34 SECTION 14. Arkansas Code 23-83-124(d) is amended to read as follows:

35 (d) This section shall not apply to group insurance lawfully placed in
36 an ~~unauthorized~~ insurer as a surplus line under chapter 65 of this title.

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SECTION 15. Arkansas Code 23-83-125, concerning assignment of rights or incidents of ownership under a group insurance policy, is amended to read as follows:

23-83-125. Assignment of rights or incidents of ownership.

Nothing in §§ 23-83-101 - 23-83-124 shall prohibit a person who is insured under any group policy from making an assignment or otherwise disposing of all or any part of his rights or incidents of ownership under the policy, ~~including, but not limited to, any right to surrender, cancel, assign, pledge, or borrow against the policy, any right to designate beneficiaries thereunder, and any conversion rights upon termination of eligibility or upon termination of the policy.~~

SECTION 16. Arkansas Code 23-83-127, concerning acknowledgment of assignment rights, is repealed.

~~23-83-127. Right of assignment acknowledged.~~

~~This section acknowledges, declares, and codifies the existing right of assignment of interests under insurance policies by persons insured under the policies.~~

/s/ Biggs