

CHAPTER 840

H.B. No. 1303

AN ACT

relating to the conditions of and requirements for issuance of certain life, health, and accident insurance policies, contracts, certificates, and forms, and certain annuity contracts and forms.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Sections (d) and (f), Article 3.42, Insurance Code, are amended to read as follows:

(d)(1) Every such filing hereby required shall be made prior to any such issuance, delivery or use of such form, contract or policy. *The insurer may immediately issue, deliver and use such form, contract or policy, provided such [Such] filing shall be accompanied by a certification on behalf of the filing insurer, signed by either an attorney licensed to practice law in this state, an actuary familiar with the requirements of this Code and the applicable rules and regulations adopted pursuant thereto, or the chief executive officer of such filing insurer. Such certification must affirm that it is on behalf of the insurer, that the insurer is bound thereby, that the person certifying has reviewed the filing, and that, based upon that person's best knowledge, information, and belief, such filed form, contract, or policy complies in all respects with the provisions of this Code and the adopted rules and regulations that are applicable to such policy, contract, certificate, application, rider, endorsement, or other form being filed. [and which certification must represent to the State Board of Insurance that the certification is on behalf of the insurer, that the insurer is bound thereby, that the matters contained therein are within the personal knowledge of the person certifying and that such filed form, contract or policy complies in all respects with the provisions of this Code and the adopted rules and regulations that are applicable to such policy, contract, certificate, application, rider, endorsement or other form being filed.]* At the expiration of sixty days after receipt of such filed form, contract or policy by the State Board of Insurance such form, contract or policy shall be deemed approved by the State Board of Insurance unless prior thereto it has been affirmatively either approved or disapproved by the written order of the Board, *or the insurer has requested in writing that the deemer be extended for an additional period of time, not to exceed sixty days. The request for extension shall be considered granted upon being received by the State Board of Insurance.* If such policy, contract or form is affirmatively disapproved by the Board, the insurer, upon receiving written notice thereof, shall immediately cease issuing or using such policy, contract or form. *If any such filed contract, policy or form is used, issued, or delivered prior to either affirmative or statutory deemer approval, and if corrections are required to be made before approval in order to bring the contract, policy or form into complete compliance with the provisions of this Code and the applicable rules of the State Board of Insurance, the Commissioner, at his discretion, may order the insurer either to reissue a corrected contract, policy or form to replace the one previously issued, delivered, or used, or to amend and correct it by endorsement or rider. If a contract, policy or form is disapproved or approval is withdrawn under the provisions of Section (g) of this Article, the Commissioner may, at his discretion, order a similar replacement or amendment to correct the original contract, policy or form. In the event it is determined after notice and opportunity for hearing that Texas insureds have been damaged by the use of a contract, policy or form that does not comply with this Code and applicable rules of the State Board of Insurance, the Commissioner of Insurance may order the insurer to make complete restitution in such form and amount and within such time period as determined by the Commissioner. This section shall not be construed to be in derogation or to in any way limit the applicability of any otherwise applicable statute. [If any such filed form, contract or policy is used, issued or delivered prior to either agency action or statutory deemer and such form, contract or policy is thereafter determined to be in violation of any specific statutory provisions of this Code, or in violation of any valid specific rule duly adopted by the State Board of Insurance applicable thereto, the insurer shall be subject to disciplinary action by the Commissioner of Insurance under any otherwise applicable provision of this Code including, but not limited to, Paragraph 7, Article 1.10, of this Code. The Commissioner of Insurance at his discretion may order the insurer to either reissue a correct form, contract or policy to replace the one determined to be in violation of such statute or rule, or to amend and correct such form, contract or policy by endorsement or rider.]*

(2) In lieu of and as an alternative to such filing being accompanied by such certification as required in Paragraph (1) above, any such filing required hereby shall be made not less than sixty days in advance of any such issuance, delivery, or use of such form, and at the expiration of sixty days the form so filed shall be deemed approved by the State Board of Insurance unless prior thereto it has been affirmatively approved or disapproved by the written order of said Board. Approval of any such form by such Board shall constitute a waiver of any unexpired portion of the waiting period, or periods, herein provided.

(3) Those filed policies, contracts or forms which are subject to either Section 11, Article 3.28, or Section 9, Article 3.44a, of this Code, may be filed and used in accordance with Paragraph (1) above, but such filed policies, contracts or forms shall not be deemed to be approved by the expiration of the sixty days provided for in either Paragraph (1) or (2) hereof, and such policies, contracts or forms must be either affirmatively approved or disapproved by the Board under this Article within such sixty days. *The insurer may request once in writing that such sixty-day period be extended for an additional sixty days, which request shall be considered granted upon being received by the State Board of Insurance.*

(f) The State Board of Insurance may, by written order, exempt from the requirements of this Article for so long as it deems proper, any insurance document or form specified in such order, to which in its opinion *either (i) this Article may not practically be applied, (ii) the form's preparation, use, and meaning have become routine or commonplace, or (iii) the filing and approval of such form or document [which] are, in its opinion, not desirable, appropriate, required, or necessary for the protection of the public.* Additionally, the State Board of Insurance may, after notice and hearing, adopt reasonable rules and amendments to rules that are necessary for it to establish guidelines, procedures, methods, standards, and criteria by which the various and different types of forms and documents submitted to the Board are to be reviewed and approved by the Board as being in compliance with this article, and to provide those guidelines, procedures, methods, standards, and criteria by which a summary review and approval may be given to those particular types of forms and documents designated by the Board that, in its opinion, will expedite the review and approval process of those forms and documents.

SECTION 2. Article 3.75, Insurance Code, is amended by adding Section 10 to read as follows:

Sec. 10. MODIFIED GUARANTEED ANNUITIES AND MODIFIED GUARANTEED LIFE INSURANCE. (a) For purposes of this section, "modified guaranteed contracts" means individual policies of life insurance and deferred annuity contracts, the underlying assets of which are held in a separate account and the values of which are guaranteed if held for specified periods. They contain nonforfeiture values that are based upon a market-value adjustment formula if held for shorter periods. This formula may or may not reflect the value of assets held in the separate account.

(b) Notwithstanding any provision of this article to the contrary, the following requirements shall apply to modified guaranteed contracts:

(1) Unless otherwise approved by the Commissioner, assets held in separate accounts, relating to modified guaranteed contracts providing nonforfeiture values which may vary based on a market-value adjustment formula, shall be subject to the requirements and limitations prescribed by the laws of this state governing the investments of life insurance companies.

(2) Separate accounts, relating to modified guaranteed contracts, shall be included in the separate account annual statement filed by the insurance company pursuant to Section 6 of this article.

(3) Any modified guaranteed contract shall contain, on its first page, a prominent statement that the nonforfeiture values may increase or decrease, based on the market-value formula specified in the contract.

(c) The State Board of Insurance may promulgate reasonable rules, which are separate from any rules adopted under Section 8 of this article and applicable to modified guaranteed contracts only, as are appropriate for the regulation of modified

guaranteed contracts under this article and the separate accounts maintained with respect to the same.

SECTION 3. Article 21.23, Insurance Code, is amended to read as follows:

Art. 21.23. **FORFEITURE OF BENEFICIARY'S RIGHTS.** The interest of a beneficiary in a life insurance policy or contract heretofore or hereafter issued shall be forfeited when the beneficiary is the principal or an accomplice in willfully bringing about the death of the insured. When such is the case, *a contingent beneficiary named by the insured in the policy shall receive the insurance unless that contingent beneficiary was also a principal or an accomplice in willfully bringing about the death of the insured. If no contingent beneficiary is named by the insured in the policy or if all contingent beneficiaries named by the insured in the policy were principals or accomplices in willfully bringing about the death of the insured,* the nearest relative of the insured shall receive said insurance.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on May 18, 1987, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 1303 on May 30, 1987, by a non-record vote. Passed by the Senate, with amendments, on May 28, 1987, by the following vote: Yeas 30, Nays 0.

Approved June 19, 1987.

Effective Aug. 31, 1987, 90 days after date of adjournment.