

CHAPTER 789

H.B. No. 923

AN ACT

relating to the issuance of certain types of life, accident, and health insurance by stipulated premium insurance companies.

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

SECTION 1. Chapter 22, Insurance Code, is amended by adding Article 22.23A to read as follows:

Art. 22.23A. ISSUANCE OF CERTAIN TYPES OF INSURANCE POLICIES

Sec. 1. In addition to the types of insurance coverages otherwise authorized in this chapter for issuance by a stipulated premium company, each stipulated premium company possessing at the time of commencement of writing coverages under this article, the amount of, or in excess of, the capital and unencumbered surplus required

for organization of a life and health company under the provisions of Article 3.02 of this code, may:

(a) issue any type of life, health, or accident coverages authorized by Chapter 3 of this code, provided that each policy so issued shall be reserved under the provisions of Chapter 3, and each such policy shall also comply with all other provisions of law and lawful regulations applicable to policies issued by companies licensed or doing business under the provisions of Chapter 3; and

(b) issue life insurance contracts without cash surrender values or nonforfeiture values and which are in excess of \$10,000 on any one life, provided that (1) each policy so issued shall be reserved and reserves shall be maintained on such life policies in accordance with any reserve table adopted by the State Board of Insurance as appropriate for this type of policy; (2) no policy form shall be approved until the standard of valuation, including an appropriate mortality table and interest rate, has been adopted by the State Board of Insurance; (3) each policy so issued shall contain a notice on its first page that the policy does not provide cash surrender values, and other paid up nonforfeiture benefits or loan values; and (4) the policy contain provisions for a grace period for the payment of every premium after the first, during which grace period the policy shall remain in force.

Sec. 2. Each stipulated premium company issuing any insurance coverage authorized by Section 1 of this article shall at all times thereafter maintain the capital and unencumbered surplus as was required at the time such stipulated premium company commenced writing coverages under this article. If the stipulated premium company fails to comply with this provision, it shall be deemed and considered as impaired unless it reinsures all insurance coverages written under this article with a company licensed to do business in Texas under the provisions of Chapter 3, Chapter 11, or Chapter 22, provided such assuming company meets all the requirements of this article.

Sec. 3. Notwithstanding any other provision of this code to the contrary, the State Board of Insurance is hereby authorized to license agents under Chapter 213, Acts of the 54th Legislature, 1955 (Article 21.07-1, Vernon's Texas Insurance Code), to solicit and write any coverage authorized by this article on behalf of stipulated premium companies. Wherever in Chapter 213, Acts of the 54th Legislature, 1955 (Article 21.07-1, Vernon's Texas Insurance Code), the terms "legal reserve life insurance company," "legal reserve company," "insurance carrier," or "insurer" are used they shall include stipulated premium companies for the limited purposes of issuing coverage under this article.

Sec. 4. No agent shall solicit or write any coverage authorized by this article unless such agent holds a license under Chapter 213, Acts of the 54th Legislature, 1955 (Article 21.07-1, Vernon's Texas Insurance Code), and is appointed by the company for which the agent is soliciting and writing coverage under this article.

Sec. 5. Any stipulated premium company issuing coverages provided in this article or maintaining policies in force that were issued under this article shall file its annual statement on or before March 1 of each calendar year.

Sec. 6. Any stipulated premium company issuing coverages provided in this article or maintaining policies in force that were issued under this article shall pay premium taxes on such business in like manner as a company chartered and doing business under the provisions of Chapter 3 of this code.

Sec. 7. The readjustment of premium provisions contained in Section 3, Article 22.13, of this code shall not be applicable to life policies issued under this article. The State Board of Insurance shall not take into account losses sustained by a stipulated premium company on policies issued under this article in applying the provisions of Section 2, Article 22.13, of this code to stipulated premium companies for its life insurance business not issued under the provisions of this article. The provisions of Article 22.11 of this code shall not apply to policies written pursuant to this article.

Sec. 8. The State Board of Insurance shall adopt reasonable rules to implement this article, including but not limited to adoption of the mortality and reserving

tables provided in Subsections (b)(1) and (b)(2) of Section 1 of this article and adoption of reasonable and necessary rules relating to the content, form, and style of the notice provisions under Subsection (b)(3) and terms of the grace period required under Subsection (b)(4), Section 1.

SECTION 2. Section 12, Article 3.44a, Insurance Code, is amended to read as follows:

Sec. 12. EXCEPTIONS. This Article shall not apply to any of the following:

- (a) reinsurance,
- (b) group insurance,
- (c) pure endowment,
- (d) annuity or reversionary annuity contract,
- (e) term policy of uniform amount, which provides no guaranteed nonforfeiture or endowment benefits, or renewal thereof, of twenty years or less expiring before age seventy-one, for which uniform premiums are payable during the entire term of the policy,
- (f) term policy of decreasing amount, which provides no guaranteed nonforfeiture or endowment benefits, on which each adjusted premium, calculated as specified in Sections 5, 6, 7, and 8, is less than the adjusted premium so calculated, on a term policy of uniform amount, or renewal thereof, which provides no guaranteed nonforfeiture or endowment benefits, issued at the same age and for the same initial amount of insurance and for a term of twenty years or less expiring before age seventy-one, for which uniform premiums are payable during the entire term of the policy,
- (g) policy, which provides no guaranteed nonforfeiture or endowment benefits, for which no cash surrender value, if any, or present value of any paid-up nonforfeiture benefit, at the beginning of any policy year, calculated as specified in Sections 3, 4, 5, 6, 7, and 8 exceeds two and one-half per cent (2-1/2%) of the amount of insurance at the beginning of the same policy year, [~~nor to any~~]
- (h) policy which shall be delivered outside this state through an agent or other representative of the company issuing the policy, *nor to any*
- (i) *policy issued not providing for cash values or nonforfeiture values meeting the requirements of Subsection (b), Section 1, Article 22.23A, Insurance Code.*

For purposes of determining the applicability of this Article, the age at expiry for a joint term life insurance policy shall be the age at expiry of the oldest life.

SECTION 3. Article 3.44, Insurance Code, is amended to read as follows:

Art. 3.44. POLICIES SHALL CONTAIN CERTAIN PROVISIONS. No policy of life insurance shall be issued or delivered in this State, or be issued by a life insurance company organized under the laws of this State, unless the same shall contain provisions substantially as follows:

1. That all premiums shall be payable in advance either at the home office of the company or to an agent of the company upon delivery of a receipt signed by one or more of the officers who are designated in the policy.
2. For a *grace period* of at least one month, for the payment of every premium after the first, which may be subject to an interest charge, during which month the insurance shall continue in force, which may stipulate that if the insured shall die during the period of grace the overdue premium will be deducted in any settlement under the policy, *provided, however, the State Board of Insurance may, by rule, provide for a longer grace period for policies issued under Subsection (b), Section 1, Article 22.23A, Insurance Code.*
3. That the policy, or policy and application, shall constitute the entire contract between the parties and shall be incontestable after it has been in force during the lifetime of the insured for two (2) years from its date, except for non-payment of premiums, and which provisions may, at the option of the company, contain an exception for violation of the conditions of the policy relating to naval and military service in time of war.

4. That all statements made by the insured shall, in the absence of fraud, be deemed representations and not warranties.

5. That if the age of the insured has been understated, the amount payable under the policy shall be such as the premium paid would have purchased at the correct age.

6. That after three (3) full years' premiums have been paid, the company, at any time while the policy is in force, will advance upon proper assignment of the policy and upon the sole security thereof at a specified rate of interest a sum equal to, or at the option of the owner of the policy less than, the cash value of the policy and of any dividend additions thereto; and that the company may deduct from such loan value any existing indebtedness on the policy and any unpaid balance of the premiums for the current policy year, and may collect interest in advance on the loan to the end of the current policy year, which provision may also provide that such loans may be deferred for not exceeding six (6) months after the application therefor is made. It shall also be stipulated in the policy that failure to repay any such advance, or to pay interest, shall not void the policy until the total indebtedness thereon to the company shall equal or exceed the cash value. No condition other than as herein provided shall be exacted as a prerequisite to any such advance. This provision shall not be required in term insurance, nor in pure endowments issued or granted as original policies, or in exchange for lapsed or surrendered policies or for policies not providing for cash values or non-forfeiture values meeting the requirements of Subsection (b), Section 1, Article 22.23A, Insurance Code.

7. Provisions for non-forfeiture benefits in the event of default in premium payments and for cash surrender values in accordance with the provisions of this Section 7 and Section 8 of this Article 3.44 in the case of policies issued prior to the operative date of Article 3.44a (the Standard Non-forfeiture Law), and in accordance with provisions of Article 3.44a in the case of policies issued on or after said date. Policies issued prior to the operative date of Article 3.44a shall contain a provision substantially as follows: a provision which, in the event of default in the premium payments after premiums shall have been paid for three (3) full years, shall secure a stipulated form of insurance on the life of the Insured, the net value of which shall be equal to the reserve (exclusive of any reserve for disability or accidental death benefits) at the date of default on the policy, and on any dividend additions thereto, according to the mortality table, rate of interest and method adopted for computing such reserve, less a sum of not more than two and one-half per cent (2- $\frac{1}{2}$ %) of the amount insured by the policy and of any existing dividend additions thereto, and less any existing indebtedness to the company on the policy; provided, however, that if the mortality table adopted for computing such reserve is either the American Men Ultimate Table of Mortality or the Commissioners 1941 Standard Ordinary Mortality Table, then in calculating the value of paid-up term insurance with accompanying pure endowment, if any, a rate of mortality may be assumed which is not more than one hundred thirty per cent (130%) of the rate of mortality according to such adopted table or, in case of sub-standard policies, the adopted multiple thereof; provided further, that if the mortality table adopted for computing such reserve is the Commissioners 1958 Standard Ordinary Mortality Table, then in calculating the value of paid-up term insurance with accompanying pure endowment, if any, a rate of mortality may be assumed which is not more than that shown in the Commissioners 1958 Extended Term Insurance Table, or, in case of sub-standard policies, the adopted multiple thereof; and provided further as respects policies on female risks, other than policies of industrial insurance, the net value of any such stipulated form of insurance may be calculated according to an age not more than three (3) years younger than the actual age of the insured, provided the same age differential has been used in computing the policy reserves under such policies. The policy shall state: (1) the amount and term of the stipulated form of insurance calculated upon the assumption of no indebtedness on the policy and no dividend additions thereto; and (2) the method, rate of interest, and mortality table (including any age differential applicable in making such computations on policies issued to female risks) for computing the policy reserve, which must be such as may be authorized by law for use in computing the reserve liability of the company on such policy. Such provision shall also stipulate that the policy may be surrendered to the company at its home office within one month from the due date of any premium for its cash value, which shall be specified in the policy and which shall be at least equal to the

sum which would otherwise be available for the purchase of insurance, as aforesaid, but not more than the reserve on the policy, and may stipulate that the company may defer payment for not more than six (6) months after application therefor is made. This provision shall not be required in term insurance.

8. In the case of policies issued prior to the operative date of Article 3.44a, a table showing in figures the cash values, and the options available under the policy each year, upon default in premium payments during the first twenty (20) years of the policy or the period during which premiums are payable, beginning with the year in which such values and options become available.

9. That if, in event of default in premium payments, the value of the policy shall be applied to the purchase of other insurances; and if such insurance shall be in force and the original policy shall not have been surrendered to the company and canceled, the policy may be reinstated within three (3) years from such default upon evidence of insurability satisfactory to the company and payments of arrears of premiums with interest.

10. That when a policy shall become a claim by the death of the insured, settlement shall be made upon receipt of or not later than two (2) months after due proof of death and the right of the claimant to the proceeds.

11. A table showing the amounts of installments in which the policy may provide its proceeds may be payable.

Any foregoing provision, not applicable to single premium policies shall, to that extent, not be incorporated therein.

12. In all family group life insurance policies there shall be clearly stated the maximum amount which is payable to the payee in the policy in the case of the death of any insured person or persons. Regardless of what the maximum amount of said policy is or may be, any provision for payment other than the full amount of said policy shall be clearly stated in the policy.

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 April 9, 1987, by a non-record vote; that the House refused to concur in Senate amendments to H.B. No. 923 on May 28, 1987, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 923 on June 1, 1987, by a non-record vote. Passed by the Senate, with amendments, on May 23, 1987, by the following vote: Yeas 30, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 923 on June 1, 1987, by the following vote: Yeas 31, Nays 0.

Approved June 19, 1987.

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