

GROUP LIFE INSURANCE POLICY LAW - OMNIBUS AMENDMENTS

Act of Feb. 3, 1994, P.L. 1, No. 1

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No. 1994-1

SB 704

AN ACT

Amending the act of May 11, 1949 (P.L.1210, No.367), entitled "An act relating to group life insurance; describing permitted policies and restrictions thereon, the premium basis thereof and rights thereunder; limiting the amount of such insurance; prescribing standard policy provisions; and requiring notice of conversion privileges," further providing for life insurance.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 1(4) and (7) of the act of May 11, 1949 (P.L.1210, No.367), referred to as the Group Life Insurance Policy Law, added October 5, 1978 (P.L.1059, No.247), are amended and the section is amended by adding clauses to read:

Section 1. Types Permitted.--No policy of group life insurance shall be delivered in this State unless it conforms to one of the following descriptions and to the requirements as to each set forth in sections two, three, four and five of this act.

* * *

(4) A policy issued to the trustees of a fund established by **an insurer for two or more employers [in the same industry] or by two or more employers or by an insurer for one or more labor unions, or by one or more labor unions or by an insurer for one or more employers and one or more labor unions or by one or more employers and one or more labor unions or by an insurer for one or more associations meeting the qualifications as defined in clause (5.1) or by one or more associations meeting the qualifications as defined in clause (5.1),** which trustees shall be deemed the policyholder, to insure employees of the employers or members of the unions **or such association** for the benefit of persons other than the employers or the unions **or members, employees thereof, and employees of the associations for the benefit of persons other than the employers or the unions or the associations.**

* * *

(5.1) A policy issued to an association, which shall have a constitution and bylaws and which has been organized by other than an insurer, is maintained in good faith for purposes other than that of obtaining insurance, has been in active existence for at least two years, operates from offices other than the insurer's and is controlled by principals other than the insurer's.

(5.2) A policy issued to a group, other than one described in clauses (1) through (5.1), and under which the Insurance Commissioner finds that:

(i) the issuance of such group policy is not contrary to the best interest of the public;

(ii) the issuance of such group policy would result in economies of acquisition or administration; and

(iii) the benefits are reasonable in relation to the premiums charged.

* * *

(7) A policy issued in accordance with clause (1), (3), (4) [or (5)], **(5) or (5.1)** may include provisions for the payment by the insurer of life insurance benefits upon the death of the spouse of the insured employee or member, and upon the death of one or more of his or her children dependent upon him or her for support and maintenance.[: Provided, however, That such insurance upon the life of the spouse shall not exceed ten thousand dollars (\$10,000) or one-half of the amount of insurance on the life of the insured employee or member as provided in such policy, whichever is less, and such insurance upon the life of each dependent child shall not exceed five thousand dollars (\$5,000) or one-third of the amount of insurance on the life of the insured employee or member as provided in such policy, whichever is less.]

Section 2. Section 2(2) and (4) of the act, amended March 23, 1972 (P.L.144, No.53), are amended to read:

Section 2. Policies Issued to Employers or Trustees of Employer Funds.--A policy issued to an employer, or to the trustees of a fund established by an employer, to insure employees of the employer for the benefit of persons other than the employer shall be subject to the following requirements:

* * *

(2) The premium for the policy shall be paid by the policyholder, either wholly **or partially** from the employer's funds or funds contributed by him, or [partly from such funds and partly from funds contributed by the insured employees. No policy may be issued on which the entire premium is to be derived from funds contributed by the insured employees] **wholly or partially from funds contributed by the insured employees.** [A policy on which part of the premium is to be derived from funds contributed by the insured employees may be placed in force only if at least seventy-five per cent of the then eligible employees, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions.] A policy on which no part of the premium is to be derived from funds contributed by the insured employees must insure all eligible employees, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

* * *

[(4) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the employees or by the employer or trustees.]

Section 3. Section 3(2), (3) and (4) of the act, amended July 11, 1991 (P.L.86, No.19), are amended to read:

Section 3. Policies Issued to Creditors.--A policy issued to a creditor to insure debtors of the creditor shall be subject to the following requirements:

* * *

(2) The premium for the policy shall be paid by the policyholder, either from the creditor's funds, or from charges collected from the insured debtors, or from both. [A policy on which part or all of the premium is to be derived from the collection from the insured debtors of identifiable charges not required of uninsured debtors shall not include, in the class or classes of debtors eligible for insurance, debtors under obligations outstanding at its date of issue without evidence of individual insurability unless at least seventy-five per cent of the then eligible debtors elect to pay the required

charges.] A policy on which no part of the premium is to be derived from the collection of such identifiable charges must insure all eligible debtors, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

[(3) The policy may be issued only if the group of eligible debtors is then receiving new entrants at the rate of at least one hundred persons yearly, or may reasonably be expected to receive at least one hundred new entrants during the first policy year, and only if the policy reserves to the insurer the right to require evidence of individual insurability if less than seventy-five per cent of the new entrants become insured.]

(4) The amount of insurance on the life of any debtor shall at no time exceed the amount owed by him which is repayable in installments to the creditor, or one hundred thousand dollars (\$100,000), whichever is less.

* * *

Section 4. Section 4(2) and (4) of the act, amended July 31, 1968 (P.L.939, No.287) and March 23, 1972 (P.L.144, No.53), are amended to read:

Section 4. Policies Issued to Labor Unions, Credit Unions, Police Fraternities, Firemen's Fraternities or Teachers' Associations or Federations.--A policy issued to a labor union, a credit union, a police fraternity, a firemen's fraternity or a teachers' association or federation, to insure members of such union, fraternity, association or federation for the benefit of persons other than the union, fraternity or federation or any of its officials, representatives or agents, shall be subject to the following requirements:

* * *

(2) The premium for the policy shall be paid by the policyholder, either wholly **or partially** from the union's funds, the fraternity's funds, association's funds or federation's funds, or [partly from such funds and partly from funds contributed by the insured members specifically for their insurance. No policy may be issued on which the entire premium is to be derived from funds contributed by the insured members specifically for their insurance. A policy on which part of the premium is to be derived from funds contributed by the insured members specifically for their insurance may be placed in force only if at least seventy-five per cent of the then eligible members, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions.] **wholly or partially from funds contributed by the insured members.** A policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

* * *

[(4) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the members or by the union, fraternity, association or federation.]

Section 5. Section 5 of the act, amended March 23, 1972 (P.L.144, No.53) and December 10, 1974 (P.L.901, No.296), is amended to read:

Section 5. Policies Issued to Trustees of Joint Funds.--A policy issued to the trustees of a fund established by **an insurer for** two or more employers [in the same industry] or by **two or more employers or by an insurer for** one or more labor unions, or by **one or more labor unions or by an insurer for** one or more employers and one or more labor unions, **or by one or**

more employers and one or more labor unions or by an insurer for one or more associations meeting the qualifications as defined in clause (5.1) of section 1, or by one or more associations meeting the qualifications as defined in clause (5.1) of section 1, to insure employees of the employers or members of the unions **or members, employees thereof, and employees of the associations** for the benefit of persons other than the employers or the unions, **or such associations**, shall be subject to the following requirements:

(1) The persons eligible for insurance shall be all of the employees of the employers or all of the members of the unions, **or members, employees thereof, and employees of the associations** or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the unions **or associations**, or to both. The policy may provide that the term "employees" shall include retired employees, and the individual proprietor or partners if an employer is an individual proprietor or a partnership. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship.

(2) The premium for the policy shall be paid by the trustees wholly from funds contributed by the employer or employers of the insured persons, or by the union or unions, **or by the associations**, or by both, or partly from such funds and partly from funds contributed by the insured persons. [A policy on which part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance may be placed in force only if at least seventy-five per cent of the then eligible persons, excluding any as to whom evidence of insurability is not satisfactory to the insurer, elect to make the required contributions.] A policy on which no part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance must insure all eligible persons, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

[(3) The policy must cover at date of issue at least one hundred persons and not less than an average of five persons per employer unit; and if the fund is established by the members of an association of employers the policy may be issued only if (i) either (a) the participating employers constitute at date of issue at least sixty per cent of those employer members whose employees are not already covered for group life insurance or (b) the total number of persons covered at date of issue exceeds six hundred; and (ii) the policy shall not require that, if a participating employer discontinues membership in the association, the insurance of his employees shall cease solely by reason of such discontinuance.

(4) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the insured persons or by the policyholder, employers, or unions.]

Section 6. The act is amended by adding sections to read:

Section 5.1. Policies Issued to Associations.--A policy issued to an association, which shall have a constitution and bylaws and which has been organized by other than an insurer, is maintained in good faith for purposes other than that of obtaining insurance, has been in active existence for at least two years, operates from offices other than the insurer's and is controlled by principals other than the insurer's, shall be subject to the following requirements:

(1) The persons eligible for insurance shall be all of the members of the association, employees thereof, or employees of members of the preceding or all of any class or classes for the benefit of persons other than the association.

(2) The premium for the policy shall be paid by the policyholder either wholly from funds contributed by the association or by employer members, or by both, or wholly from funds contributed by the insured persons or partly from such funds and partly from funds contributed by the association or employer member. A policy on which no part of the premium is to be derived from funds contributed by the insured persons must insure all eligible persons or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

Section 5.2. Policies Issued to Other Groups.--A policy issued to a group, other than one described in clauses (1) through (5.1) of section 1, and which meets the requirements of clause (5.2) of section 1 shall also meet the requirements of this section. The premium for the policy shall be paid by the policyholder either wholly from the policyholder's funds or funds contributed by the policyholder or wholly from funds contributed by the insured persons, or both. A policy on which no part of the premium is to be derived from funds contributed by the insured persons must insure all eligible persons or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

Section 7.2. Out-of-State Coverage.--(a) No insurer shall issue in this Commonwealth group life insurance coverage provided under a group policy issued in another state or deliver or issue for delivery in this Commonwealth a certificate of group life insurance evidencing coverage under a group policy issued in another state unless:

(1) such coverage is in compliance with the requirements of this act and any other applicable act; or

(2) for coverage under a group policy or a certificate evidencing coverage under a group policy issued to an out-of-State trustee of a fund, such coverage is issued in another state wherein the insurance supervisory official or agency of that state has determined that the issuance of the group policy or certificate is not contrary to the best interests of the general public, the issuance of the group policy or certificate would result in economies of acquisition or administration and the benefits are reasonable in relation to the premium charged. If coverage or a certificate is issued in this Commonwealth pursuant to this clause, an insurer shall file with the Insurance Department a copy of the group policy and certificate, a copy of the statute from the state in which the group policy or certificate is issued authorizing the issuance of the group policy or certificate, evidence of approval in the state where the policy or certificate is issued and copies of all supportive material used by the company to secure approval of the group policy or certificate in that state, including all the documentation required in this clause. The Insurance Commissioner, at any time subsequent to receipt of such information, after finding that the standards of this clause have not been met, may order the insurer to stop marketing such coverage in this Commonwealth.

(i) This clause shall apply to any group policy or certificate evidencing coverage under a group policy issued to any organization, or to any trust or trustee of a trust established or participated in by one or more organizations,

to insure certain persons: Provided, however, That the organization must be:

(A) a bank, retailer or other issuer of a credit card, charge card or payment card that is issued to buy goods or services, and the policy must insure holders of that card; or

(B) a bank, savings and loan association, credit union, mutual fund, money market fund, stock broker or other similar financial institution regulated by state or Federal law, and the policy must insure the depositors, account holders or members of that institution.

(ii) This clause shall not apply to any group policy or certificate providing credit life insurance as defined in the act of September 2, 1961 (P.L.1232, No.540), known as the "Model Act for the Regulation of Credit Life Insurance and Credit Accident and Health Insurance."

(b) The provisions of this act shall not apply if a group policy is issued to: (1) An out-of-State single employer.

(2) A trustee of a fund established by any person acting directly as an employer having its principal office located in a state other than this Commonwealth.

(3) An association, or a trust or trustee of a trust established or participated in by one or more associations, to insure association members or spouses or dependents of members: Provided, however, That the association must be organized or domiciled in a state other than this Commonwealth, have a constitution and bylaws, be organized by other than an insurer, be maintained in good faith for purposes other than those of obtaining insurance, have been in active existence for at least two years, operate from offices other than the insurer's and be controlled by principals other than the insurer's.

(4) A union-negotiated out-of-State trust.

(5) Other groups as may be determined by the Insurance Commissioner, subject to subsection (a).

(c) (1) For group life insurance coverage provided in this Commonwealth under a group policy issued in another state, and except as provided in clause (2) of subsection (a) and subsection (b), all group policies, certificates, amendments, endorsements and enrollment forms shall be filed with the Insurance Commissioner for approval. The insurer shall also file with the Insurance Commissioner evidence of approval in the state where the group policy is issued.

(2) Forms so filed for approval shall be subject to the provisions of section 354 of the act of May 17, 1921 (P.L.682, No.284), known as "The Insurance Company Law of 1921."

(d) As used in this section, the term "out-of-State single employer" means any person acting directly as an employer and having its principal office located in a state other than this Commonwealth. "Out-of-State trustee of a fund" means a trustee of a fund established by an insurer for two or more employers or established by two or more persons acting directly as employers and the trustee having its principal office located in a state other than this Commonwealth. "Out-of-State coverage" means insurance coverage issued in this Commonwealth and provided under a group policy issued in a state other than this Commonwealth. A "union-negotiated out-of-State trust" means a trust established under a collective bargaining agreement and which is located in a state other than this Commonwealth.

Section 7.3. Notice of Compensation.--(a) In the case of a policy issued to a group described in clause (5.1) or (5.2) of section 1 on a group basis, if compensation of any kind will or may be paid to a policyholder or sponsoring or endorsing entity, the insurer shall cause to be distributed to prospective

insureds in a written notice that compensation will or may be paid.

(b) Such notice shall be distributed:

(1) whether compensation is direct or indirect; and

(2) whether such compensation is paid to or retained by the policyholder or sponsoring or endorsing entity or paid to or retained by a third party at the direction of the policyholder or sponsoring or endorsing entity or any entity affiliated therewith by way of ownership, contract or employment.

(c) The notice required by this section shall be placed on or accompany any application or enrollment form provided to prospective insureds.

(d) As used in this section, a "sponsoring or endorsing entity" means an organization which has arranged for the offering of a program of insurance in a manner which communicates that eligibility for participation in the program is dependent upon affiliation with such organization or that it encourages participation in the program.

Section 7. Section 8 of the act is repealed.

Section 8. The act is amended by adding sections to read:

Section 8.1. Policy and Certificate Issued Prior to the Effective Date.--The provisions of this amendatory act shall not invalidate or otherwise affect any group policy legally issued prior to the effective date of this section or certificate in effect prior to the effective date of this section. All such group policies or certificates may remain in full force and effect until three years after the effective date of this section, notwithstanding the fact that they do not comply with the provisions of this act.

Section 8.2. Newly Issued Group Policy.--Any group policy issued on or after the effective date of this section shall comply with the provisions of this act.

Section 8.3. Newly Issued Certificate Under Policy Issued Prior to the Effective Date.--Certificates issued on or after the effective date of this section under a group policy legally issued prior to the effective date of this section shall comply with the provisions of this act no later than three years after the act is enacted if issued to: an employer or trustees of a fund established by an employer, trustees of a fund established by two or more employers none of whom has joined after the effective date of this section, labor union, police fraternity, firemen's fraternity, teachers' association or federation and a unit of the National Guard or Naval Militia. Any other certificates issued on or after the effective date of this section under a group policy issued prior to the effective date of this section shall comply with the provisions of this act.

Section 8.4. Newly Issued Certificate Under Newly Issued Policy.--Any certificate issued under a group policy issued on or after the effective date of this section shall comply with the provisions of this act.

Section 9. This act shall take effect in 90 days.

APPROVED--The 3rd day of February, A. D. 1994.

ROBERT P. CASEY