

LEGISLATIVE BILL 262

Approved by the Governor March 3, 1978

Introduced by Banking, Commerce and Insurance Committee,
DeCamp, 40, Chmn.; Schmit, 23; Merz, 1;
Swigart, 8; Labedz, 5; Murphy, 17

AN ACT to amend section 44-502, Reissue Revised Statutes of Nebraska, 1943, relating to insurance; to change the policy loan provisions contained in life or endowment insurance policies as prescribed; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 44-502, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-502. No policy of life or endowment insurance, except policies of industrial insurance, shall be issued or delivered in this state unless it contains in substance the following provisions:

(1) A provision that all premiums shall be payable in advance either at the home office of the company or to any agent of the company upon delivery of a receipt signed by one or more of the officers who shall be named in the policy.

(2) A provision that the insured is entitled to a grace of one month within which the payment of any premium, after the first year, may be made, subject, at the option of the company, to an interest charge not in excess of six per cent per annum for the number of days of grace elapsing before the payment of the premium, during which period of grace the policy shall continue in force; but in case the policy becomes a claim during the said period of grace before the overdue premium or the deferred premiums of the current policy year, if any, are paid, the amount of such premiums, with interest on any overdue premium, may be deducted from any amount payable under the policy in settlement.

(3) A provision that the policy shall constitute the entire contract between the parties; but if the company desires to make the application a part of the contract, it may do so; Provided, a copy of such application shall be endorsed upon or attached to the policy when issued, and in such case, the policy shall

contain a provision that the policy and the application therefor shall constitute the entire contract between the parties.

(4) A provision that all statements made by the insured shall, in the absence of fraud, be deemed representations and not warranties, and that no such statement shall avoid the policy unless it is contained in a written application, and a copy of such application shall be endorsed upon or attached to the policy when issued.

(5) A provision that the policy shall be incontestable after it shall have been in force during the lifetime of the insured for two years from its date, except for nonpayment of premiums and except with respect to limitations of liability which may be contained in the policy relating to (a) death resulting from war or acts of war, declared or undeclared, where such limitations shall have been found by the Director of Insurance to be in keeping with the interests of the policyholders of the company and to be not unfairly discriminatory, and (b) aeronautics other than as a fare-paying passenger of a commercial airline, and flying on a regularly scheduled route between definitely established airports; and in any such cases the liability of the company may be limited by the terms of the policy to a sum not less than the reserve on the face of the policy and the reserve on any paid-up additions thereto and any dividends standing to the credit of the policy, less any indebtedness to the company on the policy; and, at the option of the company, provisions relative to benefits in the event of total and permanent disability, and provisions which grant additional insurance specifically against death by accident may be excepted from the incontestable clause; Provided, limitations; with reference to aeronautics shall not be included in any policy where an extra premium is charged to cover the aeronautic risk, nor shall any such limitations extending beyond the contestable period be included in or attached to any policy where the applicant for insurance has not elected in writing to accept a policy with such limitations, and by such election has agreed to a reduced coverage for the aviation risk.

(6) A provision that if the age of the insured has been misstated, the amount payable under the policy shall be such as the premium paid would have purchased at the correct age.

(7) A provision that the policy shall participate in the surplus of the company, and that, beginning not later than the end of the third policy year, the company

shall annually ascertain and apportion the amount of divisible surplus to which all such policies, as a separate class, are entitled, which amount shall be carried as a distinct and separate liability in favor of such policies. The insured, under any annual dividend policy, shall have the right each year to have the dividend arising from such participation paid in cash, and if the policy shall provide other dividend options, it shall further provide that, if the insured shall not elect any such other options, one of such dividend options provided shall become effective as provided in the policy; but such participation and its distribution may, by contract, be deferred to a fixed or specified time, not exceeding twenty years. Upon written request of the insured the company shall furnish him with a statement of the amount of the surplus provisionally ascertained or set aside on such policy and held awaiting distribution at the expiration of the deferred dividend period.

(8) A provision that after three full years' premiums have been paid, the company at any time, while the policy is in force, will advance, on proper assignment or pledge of the policy, and on the sole security thereof, at a specified rate of interest not exceeding six eight per cent per annum or seven and four-tenths per cent if payable annually in advance, a sum equal to, or, at the option of the owner of the policy, less than the amount required by section 44-405, under the conditions specified thereby, and that the company will deduct from such loan value any existing indebtedness on the policy, which has not otherwise entered into the computation of such loan value, together with any unpaid balance of the premium for the current policy year, and may collect interest in advance on the loan to the end of the current policy year; Provided, that nothing in this subdivision shall impair the terms and conditions of any policy of life insurance in force before the effective date of this act. It shall be further stipulated in the policy that failure to repay any such advance, or to pay interest, shall not avoid the policy unless the total indebtedness thereon to the company shall equal or exceed such loan value at the time of such failure, nor until one month after notice shall have been mailed by the company to the last-known address of the insured and of the assignee, if any. No condition other than as provided herein, or in section 44-405, shall be exacted as prerequisite to any such advance. The Director of Insurance shall administer this subdivision to prevent any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged or in the dividends payable or in any other terms and conditions of life insurance

policies with substantially similar benefits. Such unfair discrimination shall constitute an unfair trade practice under section 44-1525. Prior to approving a life insurance policy form submitted by an insurer which provides for a policy loan interest rate in excess of six per cent, the director shall require assurances from such insurer that the owners of any such policies will benefit as nearly as possible in direct proportion to the increased earnings of the insurer attributable to the use of a policy loan interest rate in excess of six per cent through the use of high dividends or lower premiums or both.

(9) A provision for nonforfeiture benefits and cash surrender values in accordance with the requirements of sections 44-406 to 44-407.09.

(10) A table showing in figures the loan values, if any, and the options available under the policies each year upon default in premium payments, during at least the first twenty years of the policy.

(11) A provision that if, in the event of default in premium payments, the value of the policy shall be applied to the purchase of other insurance, 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 years from such default, upon evidence of insurability satisfactory to the company and payment of arrears of premiums with interest and the payment reinstatement of any other indebtedness to the company upon such policy.

(12) A provision that when a policy shall become a claim by the death of the insured, settlement shall be made upon receipt of due proof of death, or not later than two months after receipt of such proof.

(13) In case the proceeds of a policy are payable in installments, or as an annuity, a table showing the amounts of the installments or annuity payments.

(14) A title on the face of the policy correctly describing the same. Any of the foregoing provisions of portions of this section not applicable by reason of the plan of insurance may, to the extent of inapplicability, be omitted from the policy. Any such policy may be issued or delivered in this state which in the opinion of the Department of Insurance contains provisions on any one or more of the several foregoing requirements more favorable to the policyholder than hereinbefore required.

Sec. 2. That original section 44-502, Reissue Revised Statutes of Nebraska, 1943, is repealed.