

By: Ellis

S.B. No. 137

A BILL TO BE ENTITLED

AN ACT

relating to insurance policies insuring the life of an employee or former employee.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1103.003, Insurance Code, as effective June 1, 2003, is amended to read as follows:

Sec. 1103.003. CORPORATION, JOINT STOCK ASSOCIATION, OR TRUST ESTATE AS BENEFICIARY. A corporation, a joint stock association, or a trust estate that is engaging in business for profit may be designated as a beneficiary in a policy that insures the life of an officer, director, or stockholder of the corporation, joint stock association, or trust estate.

SECTION 2. Subchapter B, Chapter 1103, Insurance Code, as effective June 1, 2003, is amended by adding Section 1103.057 to read as follows:

Sec. 1103.057. CERTAIN LIFE INSURANCE POLICIES INSURING EMPLOYEES. (a) Except as provided by Subsection (b), an individual whose life is insured under a life insurance policy may not designate or consent to the designation of an individual, partnership, association, corporation, or other legal entity that is the individual's employer as a beneficiary of the policy.

(b) An individual may designate a legal entity that is the individual's employer as a beneficiary of a life insurance policy under which the individual's life is insured if the employer

1 complies with Subsection (c) and:

2 (1) the employer is an individual who is related by  
3 blood or marriage to the individual whose life is insured under the  
4 policy;

5 (2) the designation would be permitted under Section  
6 1103.003 or 1103.004;

7 (3) the insured is a current employee who meets, or a  
8 former employee who met at the time of retirement, the criteria set  
9 forth in 29 C.F.R. Section 541.1, 541.2, 541.3, or 541.5; or

10 (4) at the time the employer is designated as a policy  
11 beneficiary:

12 (A) the insured is an employee or former employee  
13 who participates or is eligible to participate, on the satisfaction  
14 of age, service, or similar eligibility criteria, in a plan that is  
15 an employee welfare benefit plan or an employee pension plan under  
16 which plan benefits are payable to the employee or former employee  
17 or a beneficiary designated by the insured employee or former  
18 employee; and

19 (B) the total amount of insurance coverage  
20 designating the employer as beneficiary under this subsection is  
21 reasonably related to the costs of employee or retiree benefits  
22 already incurred in connection with the employee benefit plans plus  
23 the projected future cost of the benefits as established by the  
24 employer.

25 (c) An employer designated as a beneficiary of a life  
26 insurance policy on the life of an employee under Subsection (b)  
27 must:

1           (1) notify the employee in writing that coverage is  
2 being obtained on the employee's life, specifying the minimum  
3 initial death benefit;

4           (2) advise the employee that:

5                   (A) the employee's consent is required for the  
6 coverage to be obtained;

7                   (B) once consent is given, it is irrevocable; and

8                   (C) the employer may maintain the coverage after  
9 the employee's employment has terminated; and

10           (3) obtain the employee's written consent to the  
11 coverage, including the minimum initial death benefit.

12           (d) An employer may not:

13                   (1) make consent under Subsection (c)(3) a condition  
14 of employment; or

15                   (2) retaliate against an employee for refusing to  
16 provide the consent.

17           (e) An insurer may not issue a policy or certificate to an  
18 employer insuring the life of an employee of that employer under  
19 Subsection (c) unless the insurer receives the employee's written  
20 consent that complies with Subsection (c)(3).

21           (f) Benefits of a life insurance policy for which consent  
22 was not obtained as required by Subsection (c) or for which consent  
23 was coerced in violation of Subsection (d) are not payable to the  
24 employer and are payable instead to the estate of the deceased  
25 insured.

26           (g) A person or the estate of a person who has sustained  
27 damages as a result of an action of an employer or former employer

1 in violation of this section may maintain a civil action to recover  
2 the damages against the employer or former employer in district  
3 court.

4 SECTION 3. Subsection (b), Section 1131.703, Insurance  
5 Code, as effective June 1, 2003, is amended to read as follows:

6 (b) In addition to satisfying the requirements of Article  
7 3.42 of this code, the insurer shall certify [~~An employer shall~~  
8 ~~submit evidence of the purpose of the policy~~] to the commissioner  
9 that the policy complies with Section 1103.057(e). The insurer  
10 shall also submit a sworn affidavit executed by the employer and, in  
11 the case of a corporate employer, an officer of the corporation,  
12 certifying that the group insurance plan complies with Sections  
13 1103.057(c) and (d).

14 SECTION 4. Section 1103.056, Insurance Code, is repealed.

15 SECTION 5. This Act takes effect September 1, 2003, and  
16 applies only to an insurance policy that is delivered or issued for  
17 delivery on or after that date. A policy that is delivered or  
18 issued for delivery before September 1, 2003, is governed by the law  
19 as it existed immediately before the effective date of this Act, and  
20 that law is continued in effect for that purpose.