

1-1 By: Ellis S.B. No. 137  
1-2 (In the Senate - Filed November 22, 2002; January 29, 2003,  
1-3 read first time and referred to Committee on State Affairs;  
1-4 May 12, 2003, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 6, Nays 0; May 12, 2003,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 137 By: Nelson

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to insurance policies insuring the life of an employee or  
1-11 former employee.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 1103.003, Insurance Code, as effective  
1-14 June 1, 2003, is amended to read as follows:

1-15 Sec. 1103.003. CORPORATION, JOINT STOCK ASSOCIATION, OR  
1-16 TRUST ESTATE AS BENEFICIARY. A corporation, a joint stock  
1-17 association, or a trust estate that is engaging in business for  
1-18 profit may be designated as a beneficiary in a policy that insures  
1-19 the life of an officer, director, or stockholder of the  
1-20 corporation, joint stock association, or trust estate.

1-21 SECTION 2. Subchapter B, Chapter 1103, Insurance Code, as  
1-22 effective June 1, 2003, is amended by adding Section 1103.057 to  
1-23 read as follows:

1-24 Sec. 1103.057. CERTAIN LIFE INSURANCE POLICIES INSURING  
1-25 EMPLOYEES. (a) Except as provided by Subsection (b), an  
1-26 individual whose life is insured under a life insurance policy may  
1-27 not designate or consent to the designation of an individual,  
1-28 partnership, association, corporation, or other legal entity that  
1-29 is the individual's employer as a beneficiary of the policy.

1-30 (b) An individual may designate a legal entity that is the  
1-31 individual's employer as a beneficiary of a life insurance policy  
1-32 under which the individual's life is insured if the employer  
1-33 complies with Subsection (c) and:

1-34 (1) the employer is an individual who is related by  
1-35 blood or marriage to the individual whose life is insured under the  
1-36 policy;

1-37 (2) the designation would be permitted under Section  
1-38 1103.003 or 1103.004;

1-39 (3) the insured is a current employee who meets, or a  
1-40 former employee who met at the time of retirement, the criteria set  
1-41 forth in 29 C.F.R. Section 541.1, 541.2, 541.3, or 541.5; or

1-42 (4) at the time the employer is designated as a policy  
1-43 beneficiary:

1-44 (A) the insured is an employee or former employee  
1-45 who participates or is eligible to participate, on the satisfaction  
1-46 of age, service, or similar eligibility criteria, in a plan that is  
1-47 an employee welfare benefit plan or an employee pension plan under  
1-48 which plan benefits are payable to the employee or former employee  
1-49 or a beneficiary designated by the insured employee or former  
1-50 employee; and

1-51 (B) the total amount of insurance coverage  
1-52 designating the employer as beneficiary under this subsection is  
1-53 reasonably related to the costs of employee or retiree benefits  
1-54 already incurred in connection with the employee benefit plans plus  
1-55 the projected future cost of the benefits as established by the  
1-56 employer.

1-57 (c) An employer designated as a beneficiary of a life  
1-58 insurance policy on the life of an employee under Subsection (b)  
1-59 must:

1-60 (1) notify the employee in writing that coverage is  
1-61 being obtained on the employee's life, specifying the minimum  
1-62 initial death benefit;

1-63 (2) advise the employee that:

2-1 (A) the employee's consent is required for the  
2-2 coverage to be obtained;

2-3 (B) once consent is given, it is irrevocable; and

2-4 (C) the employer may maintain the coverage after  
2-5 the employee's employment has terminated; and

2-6 (3) obtain the employee's written consent to the  
2-7 coverage, including the minimum initial death benefit.

2-8 (d) An employer may not:

2-9 (1) make consent under Subsection (c)(3) a condition  
2-10 of employment; or

2-11 (2) retaliate against an employee for refusing to  
2-12 provide the consent.

2-13 (e) An insurer may not issue a policy or certificate to an  
2-14 employer insuring the life of an employee of that employer under  
2-15 Subsection (c) unless the insurer receives the employee's written  
2-16 consent that complies with Subsection (c)(3).

2-17 (f) Benefits of a life insurance policy for which consent  
2-18 was not obtained as required by Subsection (c) or for which consent  
2-19 was coerced in violation of Subsection (d) are not payable to the  
2-20 employer and are payable instead to the estate of the deceased  
2-21 insured.

2-22 (g) A person or the estate of a person who has sustained  
2-23 damages as a result of an action of an employer or former employer  
2-24 in violation of this section may maintain a civil action to recover  
2-25 the damages against the employer or former employer in district  
2-26 court.

2-27 SECTION 3. Subsection (b), Section 1131.703, Insurance  
2-28 Code, as effective June 1, 2003, is amended to read as follows:

2-29 (b) In addition to satisfying the requirements of Article  
2-30 3.42 of this code, the insurer shall certify ~~[An employer shall~~  
2-31 ~~submit evidence of the purpose of the policy]~~ to the commissioner  
2-32 that the policy complies with Section 1103.057(e). The insurer  
2-33 shall also submit a sworn affidavit executed by the employer and, in  
2-34 the case of a corporate employer, an officer of the corporation,  
2-35 certifying that the group insurance plan complies with Sections  
2-36 1103.057(c) and (d).

2-37 SECTION 4. Section 1103.056, Insurance Code, is repealed.

2-38 SECTION 5. This Act takes effect September 1, 2003, and  
2-39 applies only to an insurance policy that is delivered or issued for  
2-40 delivery on or after that date. A policy that is delivered or  
2-41 issued for delivery before September 1, 2003, is governed by the law  
2-42 as it existed immediately before the effective date of this Act, and  
2-43 that law is continued in effect for that purpose.

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