

By: Eiland

H.B. No. 2152

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the method of payment of insurance benefits.

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

4 SECTION 1. Chapter 1102, Insurance Code, is amended to read
5 as follows:

6 CHAPTER 1102. PAYMENT OF INSURANCE BENEFITS [~~IN CURRENCY~~]

7 SUBCHAPTER A. GENERAL PROVISIONS

8 Sec. 1102.001. DEFINITIONS. In this chapter:

9 (1) "Insurance policy" means a policy, certificate, or
10 contract of:

11 (A) life, term, or endowment insurance,
12 including an annuity or pure endowment contract;

13 (B) group life or term insurance, including a
14 group annuity contract;

15 (C) industrial life insurance;

16 (D) accident or health insurance;

17 (E) group accident or health insurance;

18 (F) hospitalization insurance;

19 (G) group hospitalization insurance;

20 (H) medical or surgical insurance;

21 (I) group medical or surgical insurance; or

22 (J) fraternal benefit insurance.

23 (2) "Insurer" means any insurer, including a:

24 (A) life, accident, health, or casualty

1 insurance company;

2 (B) mutual life insurance company;

3 (C) mutual insurance company other than a life
4 insurance company;

5 (D) mutual or natural premium life insurance
6 company;

7 (E) general casualty company;

8 (F) Lloyd's plan or a reciprocal or
9 interinsurance exchange;

10 (G) fraternal benefit society; or

11 (H) group hospital service corporation.

12 (3) "Life insurance policy" means a policy,
13 certificate, or contract of:

14 (A) life, term, or endowment insurance,
15 including an annuity or pure endowment contract;

16 (B) group life or term insurance, including a
17 group annuity contract;

18 (C) industrial life insurance; or

19 (D) fraternal benefit insurance, other than
20 insurance for:

21 (i) benefits for hospital, medical, or
22 nursing expenses resulting from sickness, bodily infirmity, or
23 accident; or

24 (ii) other accident or health insurance.

25 (4) "Retained asset account" means a checking or draft
26 account into which an insurer, on behalf of a beneficiary, deposits
27 proceeds payable under a life insurance policy for withdrawal by

1 the beneficiary at the beneficiary's discretion.

2 Sec. 1102.002. RULES. The commissioner may adopt
3 reasonable rules to accomplish the purposes of this chapter,
4 including rules requiring:

5 (1) appropriate reserves for insurance policies
6 subject to this chapter; or

7 (2) prudent investment of premiums collected from
8 insurance policies subject to this chapter regardless of any other
9 provision of this code related to the investment of money by an
10 insurance company.

11 SUBCHAPTER B. PAYMENT OF BENEFITS IN CURRENCY

12 Sec. 1102.051 [~~1102.002~~]. BENEFITS PAYABLE IN CURRENCY.
13 Each benefit payable under an insurance policy delivered, issued,
14 or used in this state by an insurer shall be payable in currency.

15 Sec. 1102.052 [~~1102.003~~]. STATEMENT REGARDING VALUE OF
16 FOREIGN CURRENCY. (a) An insurance policy described by Section
17 1102.051 [~~1102.002~~] providing that benefits are payable in foreign
18 currency must include a conspicuous statement that the value of the
19 currency denominated in the policy can fluctuate as compared to the
20 value of United States currency.

21 (b) The statement must be:

22 (1) included as part of the policy; or

23 (2) attached to the insurance policy at the time it is
24 issued.

25 Sec. 1102.053 [~~1102.004~~]. PREVIOUSLY APPROVED INSURANCE
26 POLICY FORM PAYABLE IN FOREIGN CURRENCY. (a) The commissioner may
27 disapprove or withdraw approval of a previously approved insurance

1 policy form that provides benefits payable in foreign currency if
2 the commissioner determines that the foreign currency has been less
3 stable than United States currency in the previous 20-year period.

4 (b) This section does not require the resubmission for
5 approval of any previously approved insurance policy form unless:

6 (1) withdrawal of approval is authorized under this
7 section or Chapter 1701; or

8 (2) after notice and hearing, the commissioner
9 determines that approval was obtained by improper means, including
10 by misrepresentation, fraud, or a misleading statement or document.

11 ~~[Sec. 1102.005. RULES. The commissioner may adopt~~
12 ~~reasonable rules to accomplish the purposes of this chapter,~~
13 ~~including rules requiring:~~

14 ~~[(1) appropriate reserves for insurance policies~~
15 ~~subject to this chapter; or~~

16 ~~[(2) prudent investment of premiums collected from~~
17 ~~insurance policies subject to this chapter regardless of any other~~
18 ~~provision of this code related to the investment of money by an~~
19 ~~insurance company.]~~

20 SUBCHAPTER C. RETAINED ASSET ACCOUNTS

21 Sec. 1102.101. RETAINED ASSET ACCOUNT ELECTION. (a) An
22 insurer may not transfer proceeds payable under a life insurance
23 policy to a retained asset account unless the insurer obtains the
24 written consent of the beneficiary or, in the case of a group
25 contract, the policy owner before transferring the proceeds to the
26 account.

27 (b) An insurer may not use a retained asset account as the

1 insurer's default method of payment of proceeds under a life
2 insurance policy.

3 Sec. 1102.102. DISCLOSURE REQUIREMENTS. (a) The claim
4 form for payment of proceeds under a life insurance policy must
5 include a statement, written in plain language and in boldfaced
6 type, disclosing benefit payment options available under the
7 policy, including payment through the use of a retained asset
8 account or by check directly to the claimant.

9 (b) An insurer may not transfer proceeds payable under a
10 life insurance policy to a retained asset account unless the
11 insurer, before transferring the proceeds and in a written document
12 signed by the claimant, discloses to the claimant, or advises the
13 claimant concerning, the following information:

14 (1) a recommendation to consult a tax, investment, or
15 other financial advisor about tax liability and investment options;

16 (2) the initial interest rate for the retained asset
17 account, when and how the interest rate may change, and any
18 dividends and other gains that may be paid or distributed to the
19 account holder;

20 (3) the name and address of the custodian of the
21 retained asset account;

22 (4) any coverage of the retained asset account
23 guaranteed by the Federal Deposit Insurance Corporation and the
24 amount of the coverage;

25 (5) any limitations on withdrawal of funds from the
26 retained asset account, including any minimum or maximum benefit
27 payment amounts;

1 (6) the anticipated duration of any delays that the
2 retained asset account holder might encounter in completing an
3 authorized transaction;

4 (7) any fees for services provided, including a list
5 of the fees and the method of the fee calculation;

6 (8) the nature and frequency with which statements
7 concerning the retained asset account are issued, which must be not
8 less than once annually;

9 (9) that some or all of the benefit may be paid through
10 check, draft, or other instrument;

11 (10) that the entire proceeds are available to the
12 retained asset account holder by the use of a single check, draft,
13 or other instrument;

14 (11) whether the insurer or a related party may earn
15 income from the retained asset account, in addition to any fees
16 charged on the account, from the total gains received on the
17 investment of the balance of funds in the account;

18 (12) the telephone number, address, and other contact
19 information, including website address, to obtain additional
20 information regarding the retained asset account;

21 (13) a description of the insurer's policy regarding
22 retained asset accounts that may become inactive; and

23 (14) any other information prescribed by the
24 commissioner by rule.

25 Sec. 1102.103. INACTIVE ACCOUNTS. Not later than the 30th
26 day after the date a retained asset account becomes inactive, an
27 insurer shall return to the beneficiary the remaining balance of

1 the account. For purposes of this section, a retained asset account
2 is inactive if:

3 (1) for a period of three years, no amount of money is
4 withdrawn from the account; and

5 (2) no affirmative directive on the disposition of the
6 account has been provided to the insurer by the beneficiary.

7 SECTION 2. This Act applies only to a claim made under a
8 life insurance policy on or after September 1, 2011. A claim made
9 before September 1, 2011, is governed by the law as it existed
10 immediately before the effective date of this Act, and that law is
11 continued in effect for that purpose.

12 SECTION 3. This Act takes effect September 1, 2011.