

BILL ANALYSIS

Senate Research Center

H.B. 3960
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Business & Commerce
5/13/2025
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

To prevent fraud in the sale of life insurance, all such insurance policies must include a two-year contestability period following issuance that allows an insurer to rescind the policy if it is determined that the applicant provided material misrepresentations about the applicant's health. After the two-year period, the policy is considered incontestable under statute, and the insurer can only rescind the policy if the insurer shows that the applicant intentionally misrepresented material facts or committed fraud.

Ambiguity in the statute, however, has allowed some courts to establish an inappropriately high threshold for rescission, compelling life insurance companies to pay policy benefits even when the applicant clearly provided false information about their health status.

H.B. 3960 would address this issue by clarifying the circumstances under which a life insurance policy may be rescinded within the first two years if a misrepresentation is material to the assumed risk of the policy, and the premium paid by the insurer is refunded.

H.B. 3960 amends current law relating to the effect of certain misrepresentations on certain insurance policies.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Chapter 705, Insurance Code, to read as follows:

CHAPTER 705. MISREPRESENTATIONS BY POLICYHOLDERS OR APPLICANTS

SECTION 2. Amends Section 705.002, Insurance Code, as follows:

Sec. 705.002. APPLICABILITY OF SUBCHAPTER. (a) Creates this subsection from existing text and creates an exception under Section 705.105.

(b) Provides that, to the extent of a conflict between Subchapter A (General Provisions) and a life insurance policy governed under Subchapter C (Special Provisions Related to Life Insurance Policies), Subchapter C controls.

SECTION 3. Amends Subchapter A, Chapter 705, Insurance Code, by adding Section 705.0025, as follows:

Sec. 705.0025. EFFECT OF CHAPTER ON COMMON LAW. Provides that to the extent of a conflict between Chapter 705 and common law on this impact of a misrepresentation in an application for insurance, this chapter controls.

SECTION 4. Amends Section 705.003(b), Insurance Code, as follows:

(b) Provides that Subsection (a) (relating an insurance policy provision that states that a misrepresentation made in a proof of loss or death makes the policy void or voidable) does not apply if the trier of fact determines, rather than it is shown at trial that, the misrepresentation meets certain criteria.

SECTION 5. Amends Sections 705.004(a) and (b), Insurance Code, as follows:

(a) Provides that, except as provided by Section 705.1045 for a contestability provision in a life insurance policy, an insurance policy provision that states that false statements made in the application for the policy or in the policy make the policy void or voidable has no effect and is not a defense in a suit brought on the policy.. Makes a nonsubstantive change.

(b) Provides that Subsection (a) does not apply if the trier of fact determines, rather than it is shown at trial that, the matter misrepresented meets certain criteria.

SECTION 6. Amends Section 705.051, Insurance Code, as follows:

Sec. 705.051. IMMATERIAL MISREPRESENTATION IN LIFE, ACCIDENT, OR HEALTH INSURANCE APPLICATION. Provides that a misrepresentation in an application for a life, accident, or health insurance policy does not defeat recovery under the policy and is not a basis for rescission unless the misrepresentation meets certain criteria.

SECTION 7. Amends Sections 705.101, 705.102, and 705.104, Insurance Code, as follows:

Sec. 705.101. DEFINITION. Redefines "insurance policy."

Sec. 705.102. APPLICABILITY OF SUBCHAPTER. Provides that this subchapter applies to any life insurance policy issued or contracted for in this state.

Sec. 705.104. MISREPRESENTATION IN APPLICATION FOR LIFE INSURANCE. Provides that a defense based on a misrepresentation in the application for, or in obtaining, a life insurance policy on the life of a person in or residing in this state is not valid or enforceable in a suit brought on the policy on or after the second anniversary of the date of issuance of the policy if premiums due on the policy during the preceding two years have been paid to and received by the insurer, unless:

(1) the insurer has notified the insured or, if the insured is deceased, each beneficiary of the insured of the insurer's intention to rescind the policy because of the misrepresentation; or

(2) the trier of fact determines, rather than it is shown at the trial that, the misrepresentation was material to the risk and intentionally made.

SECTION 8. Amends Subchapter C, Chapter 705, Insurance Code, by adding Section 705.1045, as follows:

Sec. 705.1045. MISREPRESENTATIONS IN APPLICATIONS FOR LIFE INSURANCE POLICIES IN EFFECT NOT MORE THAN TWO YEARS. (a) Defines "misrepresentation."

(b) Authorizes an insurer to rescind or terminate a life insurance policy before the second anniversary of the date of the issuance of the policy based on a misrepresentation if the misrepresentation is material to the risk and affects the risks assumed and the premium paid by the insured is refunded.

(c) Provides that proof of fraud or intent is not required to terminate a life insurance policy if the policy contains a contestability provision allowing the

insurer to contest a misrepresentation in the application before the second anniversary of the date of the issuance of the policy.

(d) Requires an insurer to provide notice of rescission or termination not later than the 90th day after the date the insurer discovered the misrepresentation and provided notice of the misrepresentation to the insured or if the insured is deceased, the owners or beneficiaries of the policy.

SECTION 9. Amends Section 705.105, Insurance Code, as follows:

Sec. 705.105. APPLICABILITY OF OTHER LAW. Provides that Subchapter A does not apply to a life insurance policy that contains a provision making the policy incontestable by the insurer for a material misrepresentation in the application for insurance before the second anniversary of the date of the issuance of the policy, rather than after two years or less, and on which premiums have been paid, rather than duly paid.

SECTION 10. Makes application of Chapter 705, Insurance Code, as amended by this Act, prospective to January 1, 2026.

SECTION 11. Effective date: September 1, 2025.