

BILL ANALYSIS

H.B. 3960
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Insurance
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Under current state law, 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. However, ambiguity in the statute 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 H.B. 3960 seeks to address this issue by clarifying the circumstances under which a life insurance policy may be rescinded.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 3960 amends the Insurance Code to authorize 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 following conditions are met:

- the misrepresentation is material to the risk and affects the risks assumed; and
- the premium paid by the insured is refunded.

For those purposes, the bill establishes a misrepresentation includes a false statement, omission, or other error in an application for a life insurance policy that materially impacts the insurer's decision to issue the policy to the applicant. The bill expressly does not require proof of fraud or intent 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. The bill requires an insurer to provide notice of rescission or termination not later than the 90th day after the date the insurer does the following:

- discovered the misrepresentation; and
- provided notice of the misrepresentation to either of the following parties:
 - the insured; or
 - if the insured is deceased, the owners or beneficiaries of the policy.

The bill establishes that to the extent of conflict between statutory provisions governing misrepresentations by policyholders generally and special statutory provisions related to life

insurance policies, the latter provisions prevail, and to the extent of a conflict between provisions governing misrepresentations by policyholders and common law on the impact of a misrepresentation in an application for insurance, those provisions governing misrepresentations by policyholders control. The bill establishes that a misrepresentation that was material to the risk or contributed to the contingency or event on which the policy became due need not be shown at trial in order for a policy provision that states that false statements made in the application for the policy or in the policy make the policy void or voidable to have effect and be a defense in a suit on the policy.

H.B. 3960 establishes that a misrepresentation that was fraudulently made, misrepresented a fact material to the question of the insurer's liability under the policy, and misled the insurer and caused the insurer to waive or lose a valid defense to the policy need not be shown at trial in order for an insurance policy provision that states that a misrepresentation, including a false statement, made in a proof of loss or death makes the policy void or voidable to have effect and be a defense in a suit brought on the policy.

H.B. 3960 specifies the following:

- that a misrepresentation in an application for a life, accident, or health insurance policy is not a basis for rescission unless the misrepresentation is of a material fact and affects the risks assumed; and
- that special provisions related to life insurance policies apply to any life insurance policy issued or contracted for in Texas.

The bill authorizes each beneficiary of the insured, if the insured is deceased, to be notified by the insurer of their intention to rescind a life insurance policy because of the misrepresentation in the application for life insurance during the applicable time period as an alternative to the insurer notifying the insured of such an intention.

H.B. 3960 applies only to an insurance policy delivered, issued for delivery, or renewed on or after January 1, 2026. An insurance policy delivered, issued for delivery, or renewed before that date is governed by the law as it existed immediately before the bill's effective date and that law is continued in effect for those purposes.

EFFECTIVE DATE

September 1, 2025.