

By: Paul

H.B. No. 3960

A BILL TO BE ENTITLED

AN ACT

relating to the effect of certain misrepresentations on certain insurance policies.

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

SECTION 1. The heading to Chapter 705, Insurance Code, is amended to read as follows:

CHAPTER 705. MISREPRESENTATIONS BY POLICYHOLDERS OR APPLICANTS

SECTION 2. Section 705.002, Insurance Code, is amended to read as follows:

Sec. 705.002. APPLICABILITY OF SUBCHAPTER. (a) Except as provided by Sections [~~Section~~] 705.005 and 705.105, this subchapter applies to each insurance policy issued or contracted for in this state.

(b) To the extent of a conflict between this subchapter and Subchapter C, Subchapter C controls.

SECTION 3. Subchapter A, Chapter 705, Insurance Code, is amended by adding Section 705.0025 to read as follows:

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

SECTION 4. Section 705.003(b), Insurance Code, is amended to read as follows:

(b) Subsection (a) does not apply if [~~it is shown at trial~~

1 ~~that~~] the misrepresentation:

2 (1) was fraudulently made;

3 (2) misrepresented a fact material to the question of
4 the insurer's liability under the policy; and

5 (3) misled the insurer and caused the insurer to waive
6 or lose a valid defense to the policy.

7 SECTION 5. Sections 705.004(a) and (b), Insurance Code, are
8 amended to read as follows:

9 (a) Except as provided by Section 705.1045 for a
10 contestability provision in a life insurance policy, an [An]
11 insurance policy provision that states that false statements made
12 in the application for the policy or in the policy make the policy
13 void or voidable:

14 (1) has no effect; and

15 (2) is not a defense in a suit brought on the policy.

16 (b) Subsection (a) does not apply if ~~[it is shown at trial~~
17 ~~that]~~ the matter misrepresented:

18 (1) was material to the risk; or

19 (2) contributed to the contingency or event on which
20 the policy became due and payable.

21 SECTION 6. Section 705.051, Insurance Code, is amended to
22 read as follows:

23 Sec. 705.051. IMMATERIAL MISREPRESENTATION IN LIFE,
24 ACCIDENT, OR HEALTH INSURANCE APPLICATION. A misrepresentation in
25 an application for a life, accident, or health insurance policy
26 does not defeat recovery under the policy and is not a basis for
27 rescission unless the misrepresentation:

(1) is of a material fact; and

(2) affects the risks assumed.

SECTION 7. Sections 705.101, 705.102, and 705.104, Insurance Code, are amended to read as follows:

Sec. 705.101. DEFINITION. In this subchapter, "insurance policy" means a contract or policy of life insurance.

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

Sec. 705.104. MISREPRESENTATION IN APPLICATION FOR LIFE INSURANCE. 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) ~~[it is shown at the trial that]~~ the misrepresentation was:

(A) material to the risk; and

(B) intentionally made.

SECTION 8. Subchapter C, Chapter 705, Insurance Code, is amended by adding Section 705.1045 to read as follows:

1 Sec. 705.1045. MISREPRESENTATIONS IN APPLICATIONS FOR LIFE
2 INSURANCE POLICIES IN EFFECT NOT MORE THAN TWO YEARS. (a) In this
3 section, "misrepresentation" includes a false statement, omission,
4 or other error in an application for a life insurance policy that
5 materially impacts the insurer's decision to issue the policy to
6 the applicant.

7 (b) An insurer may rescind or terminate a life insurance
8 policy before the second anniversary of the date of the issuance of
9 the policy based on a misrepresentation if:

10 (1) the misrepresentation:

11 (A) is material to the risk; and

12 (B) affects the risks assumed; and

13 (2) the premium paid by the insured is refunded.

14 (c) Proof of fraud or intent is not required to terminate a
15 life insurance policy if the policy contains a contestability
16 provision allowing the insurer to contest a misrepresentation in
17 the application before the second anniversary of the date of the
18 issuance of the policy.

19 (d) An insurer must provide notice of rescission or
20 termination not later than the 90th day after the date the insurer:

21 (1) discovered the misrepresentation; and

22 (2) provided notice of the misrepresentation to:

23 (A) the insured; or

24 (B) if the insured is deceased, the owners or
25 beneficiaries of the policy.

26 SECTION 9. Section 705.105, Insurance Code, is amended to
27 read as follows:

1 Sec. 705.105. APPLICABILITY OF OTHER LAW. Subchapter A
2 does not apply to a life insurance policy:

3 (1) that contains a provision making the policy
4 incontestable by the insurer for a material misrepresentation in
5 the application for insurance before the second anniversary of the
6 date of the issuance of the policy [~~after two years or less~~]; and

7 (2) on which premiums have been [~~due~~] paid.

8 SECTION 10. Chapter 705, Insurance Code, as amended by this
9 Act, applies only to an insurance policy delivered, issued for
10 delivery, or renewed on or after January 1, 2026. An insurance
11 policy delivered, issued for delivery, or renewed before January 1,
12 2026, is governed by the law as it existed immediately before the
13 effective date of this Act, and that law is continued in effect for
14 that purpose.

15 SECTION 11. This Act takes effect September 1, 2025.