

AMENDED IN ASSEMBLY MAY 12, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 489

Introduced by Assembly Member Figueroa
(Coauthor: Assembly Member Cunneen)

February 24, 1997

An act to amend Section 10209.3 of, and to add Section 10113.4 to, the Insurance Code, relating to life insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 489, as amended, Figueroa. Life insurance.

(1) Existing law does not generally regulate the inclusion of incontestability clauses in life insurance policies that provide that coverage is incontestable on the grounds of suicide for a period of time after the policy is in effect, except in the case of fraternal benefit societies. Existing law provides for viatical settlements in which the owner of life insurance transfers rights in exchange for compensation less than the death benefit.

This bill would provide that every policy of life insurance ~~issued in replacement of that is converted from~~ a previously issued policy of life insurance shall be incontestable on the grounds of suicide, except that, if the policy it is ~~replacing~~ *converted from* provided that it was ~~incontestable~~ *contestable* on the grounds of suicide ~~only after~~ *within* a particular period of time, ~~the replacement insurance shall be incontestable on those grounds at the time that the insurance that it is replacing~~

~~would have been incontestable it would be contestable only within that period of time.~~

The bill would provide that a viatical settlement shall not be subject to any period of contestability on the grounds of suicide for any period in excess of the period during which the life insurance policy that is the basis of the viatical settlement could have been contested on those grounds.

(2) Existing law provides that a person insured under a group life insurance policy may make to any person, other than the policyholder, an assignment of all or any part of the incidents of ownership conferred on him by the policy or by law, but existing law provides that this right is subject to the terms of the policy, or an agreement between the insured, the group policyholder, and the insurer.

~~This bill would eliminate the provision that makes the right of assignment subject to the terms of the policy or an agreement, and would specify that the right of assignment includes assignments for value.~~

This bill would provide that a person diagnosed with a terminal illness has an absolute right of assignment, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 10113.4 is added to the Insurance
2 Code, to read:

3 ~~10113.4. (a) Every policy of life insurance issued in
4 replacement of a previously issued policy of life insurance
5 shall be incontestable on the grounds of suicide, except
6 that, if the policy it is replacing provided that it was
7 incontestable on the grounds of suicide after a particular
8 period of time, the replacement insurance shall be
9 incontestable on those grounds at the time that the
10 insurance that it is replacing would have been
11 incontestable.~~

12 *10113.4. (a) Every policy or certificate of life
13 insurance converted from a previously issued policy or
14 certificate of life insurance shall be incontestable on the*



1 *grounds of suicide. However, if the policy or certificate it*
2 *is converted from provided that it was contestable on the*
3 *grounds of suicide within a particular period of time, and*
4 *that period has not expired at the time of conversion, the*
5 *converted policy shall be contestable only for a period*
6 *that, combined with the period of time that has already*
7 *expired, will not exceed the time set forth in the original*
8 *policy. Nothing in this section shall prohibit an insurer*
9 *from imposing an otherwise lawful contestability*
10 *provision for any increased amount of coverage.*

11 (b) A viatical settlement shall not be subject to any
12 period of contestability on the grounds of suicide for any
13 period in excess of the period during which the life
14 insurance policy that is the basis of the viatical settlement
15 could have been contested on those grounds.

16 SEC. 2. Section 10209.3 of the Insurance Code is
17 amended to read:

18 10209.3. ~~Any~~ *(a) Subject to the terms of the policy, or*
19 *pursuant to an agreement between the insured, the*
20 *group policy holder, and the insurer, any person insured*
21 *under a group life insurance policy may make to any*
22 *person, other than the policyholder, an assignment of all*
23 *or any part of the incidents of ownership conferred on*
24 *him or her by the policy or by law, including specifically,*
25 *but not by way of limitation, the right to exercise the*
26 *conversion privilege; and the right to name a beneficiary;*
27 ~~and assignments for value.~~

28 The enactment of this section made at the 1969 Regular
29 Session of the Legislature does not constitute a change in,
30 but is declaratory of, the existing law.

31 *(b) Notwithstanding subdivision (a), any person who*
32 *has been diagnosed with a terminal illness shall have the*
33 *absolute right to make an assignment for value of his or*
34 *her interest in a policy or certificate of life insurance. This*
35 *right shall not be subject to any agreement with an*
36 *insurer or group policy holder.*

37 *(c) The right of assignment in subdivision (b) shall not*
38 *extend to situations in which the benefits of the policy or*



1 *certificate of life insurance are used as collateral for a*
2 *loan.*

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