

AMENDED IN ASSEMBLY JUNE 2, 1997

AMENDED IN ASSEMBLY MAY 12, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 489

Introduced by Assembly Member Figueroa
(~~Coauthor:~~ *Principal 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 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 converted from provided that it was contestable on the grounds of suicide within a particular~~

~~period of time, 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.~~

This bill would provide that if a group life insurance policy contains a provision that makes a certificate holder's coverage contestable on the grounds of suicide for a period following commencement of coverage, only the unexpired portion of that period shall be applied to a certificate holder's individual conversion policy of an equal or lesser amount of coverage.

(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 provide that a person diagnosed with a terminal illness has ~~an absolute right of assignment, as specified~~ *a right to make an absolute assignment for value of his or her interest in life insurance.*

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 or certificate of life~~
4 ~~insurance converted from a previously issued policy or~~
5 ~~certificate of life insurance shall be incontestable on the~~
6 ~~grounds of suicide. However, if the policy or certificate it~~
7 ~~is converted from provided that it was contestable on the~~
8 ~~grounds of suicide within a particular period of time, and~~
9 ~~that period has not expired at the time of conversion, the~~
10 ~~converted policy shall be contestable only for a period~~
11 ~~that, combined with the period of time that has already~~



1 ~~expired, will not exceed the time set forth in the original~~
2 ~~policy. Nothing in this section shall prohibit an insurer~~
3 ~~from imposing an otherwise lawful contestability~~
4 ~~provision for any increased amount of coverage.~~

5 ~~(b) A viatical settlement shall not be subject to any~~
6 ~~period of contestability on the grounds of suicide for any~~
7 ~~period in excess of the period during which the life~~
8 ~~insurance policy that is the basis of the viatical settlement~~
9 ~~could have been contested on those grounds.~~

10 *10113.4. If a group life insurance policy contains a*
11 *provision that makes a certificate holder's coverage*
12 *contestable on the grounds of suicide for a period*
13 *following commencement of coverage, only the*
14 *unexpired portion of that period shall be applied to a*
15 *certificate holder's individual conversion policy of an*
16 *equal or lesser amount of coverage.*

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

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

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 policyholder. *right to make an absolute*~~
37 ~~*assignment for value of his or her interest in a policy or*~~
38 ~~*certificate of life insurance.*~~

39 (c) The right of assignment in subdivision (b) shall not
40 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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