



H.B. 193
126th General Assembly
(As Introduced)

Reps. Daniels, G. Smith, Fessler, Combs, Wolpert, C. Evans, Martin

BILL SUMMARY

- Redefines what types of life insurance constitute group life insurance and grants the Superintendent of Insurance the discretion to designate other types of life insurance as group life insurance.
- Revises the provisions that must be included in group life insurance policies.

TABLE OF CONTENTS

Group life insurance	1
Life insurance issued to employers	2
Life insurance issued to creditors	3
Life insurance issued to employee organizations	5
Life insurance issued to associations	6
Life insurance issued to credit unions	7
Other forms of group life insurance	8
Notice for other forms of life insurance	9
Coverage of dependents	10
Group life insurance policy provisions	10

CONTENT AND OPERATION

Group life insurance

(sec. 3917.01)

The bill redefines "group life insurance." Under current law, in summary, group life insurance is life insurance covering not less than two employees of private employers or political subdivisions (including public schools), creditors, or members of any of several specified organizations, including, the National Guard

or militia, the Ohio Highway Patrol, professional labor unions, veterans associations, agricultural or horticultural organizations, pre-existing associations formed for a purpose other than that of obtaining insurance, credit unions, independent contractors, employer-employee joint trusts, and trusts for retired and former employees previously covered by employers and certain of the organizations listed above. Life insurance coverage for many of the same organizations continues to be defined as group life insurance under the bill, however, the bill has extensively amended the Revised Code section specifying what types of life insurance can qualify as group life insurance. Organizations are added and removed from the list of qualifying insureds and associated conditions are amended both in style and substance.

Under the bill, all of the following forms of life insurance are defined as group life insurance. Qualifications are set forth. Comparisons with provisions of current law are included as appropriate.

Life insurance issued to employers

(sec. 3917.01(A))

Continuing law defines a life insurance policy issued to an employer or to the trustees of a fund established by an employer, that insures employees for the benefit of persons other than the employer, as a type of group life insurance. The bill names the employer or trustees as the policyholder of the insurance. As amended by the bill, life insurance covering employees must conform to all of the following requirements to qualify as group life insurance:

(1) All employees of an employer, or all of any class or classes of employees, must be eligible for the insurance. The insurance policy may provide that employees include the employees of one or more subsidiary corporations and the employees, proprietors, and partners of one or more affiliated corporations, proprietorships, or partnerships, if the employer and the other businesses are under common control. The list of parties that may be included as employees is substantially the same as in current law. Under the bill, a policy also may provide that employees include retired and former employees, the directors of a corporate employer, and, when the policy insures public bodies, elected and appointed officials.

Current law requires classes of employees, when benefits are limited to classes of employees, to be determined by sex, age, or conditions pertaining to the employment, based upon a plan that precludes individual selection. The bill repeals the current qualifiers for defining a class of employees.

(2) The bill permits the insured employees, or the employers, or a combination of the employers and employees, to pay the policy's premiums. Current law requires that the premiums be paid by the employers or both the employer and the insured employees, but does not permit payment by the insured employees alone. The bill provides that an insurer may exclude or limit coverage for an individual employee if evidence for that person's insurability is not satisfactory to the insurer, otherwise, if the policy is funded solely by the employer, the policy must insure all eligible employees except for those employees who reject the coverage in writing. Under a provision of current law, repealed by the bill, if coverage is offered to all eligible employees and the premium is paid by the employer and employee jointly, not less than 75% of the employees must be insured. Another provision of current law, repealed by the bill, excludes employer life insurance from the definition of group life insurance if the policy provides for payments upon the death of any one or more, or of each, of the lives insured, and which computes premiums on the same basis used by the insurer for individual life insurance policies.

Life insurance issued to creditors

(sec. 3917.01(B))

Continuing law defines life insurance issued to creditors as a form of group life insurance. The bill provides that such life insurance must be issued to a creditor, or to the creditor's parent holding company, or to trustees or agents designated by two or more creditors, to insure the debtors of a creditor or creditors. Under the bill, the creditor, holding company, affiliate, trustee, or agent is deemed the policyholder. Current law provides only for policies issued to a creditor, who is deemed the policyholder. As amended by the bill, this type of group life insurance must conform to all of the following requirements:

(1) All debtors of the creditor or creditors must be eligible for the insurance, or all of any class or classes of debtors. A policy may define debtors to include borrowers of money or purchasers or lessees of goods, services, or property for which payment is arranged through a credit transaction, and the debtors of one or more subsidiary corporations or affiliated corporations, proprietorships, or partnerships, if the business of the policyholder and the affiliated corporations, proprietorships, or partnerships is under common control.

Provisions of current law, repealed by the bill, provide that group life insurance policies only may be issued to creditors if the group of eligible debtors is receiving new entrants at a minimum rate of 100 persons yearly or may be expected to do so during the first policy year, and continues to do so, and only if the policy reserves to the insurer the right to require evidence of individual insurability if less than 75% of the new entrants become insured. Provisions of

current law, also repealed by the bill, provide that policies issued to creditors may limit the amount of insurance available to eligible classes of debtors by age, when based upon a plan that precludes individual selection.

(2) The premium for the policy must be paid either from the creditor's funds or from charges collected from the insured debtors, or from both. An insurer may exclude or limit coverage for an individual debtor if evidence for that person's insurability is not satisfactory to the insurer, otherwise, if the policy is funded solely by the creditor, the policy must insure all eligible debtors. Under a provision of current law, repealed by the bill, a policy on which part or all of the premium is collected from the insured debtors of identifiable charges not required of uninsured debtors is prohibited from including debtors under obligations outstanding on the issue date without evidence of individual insurability unless at least 75% of the then-eligible debtors elect to pay the required charges.

(3) Unless the insurance is written in connection with open-end credit having a credit limit exceeding \$10,000, the amount of insurance on the life of a debtor may not exceed the greater of the scheduled or actual amount of unpaid indebtedness to the creditor. Insurance on open-end credit having a credit limit exceeding \$10,000 may be issued in an amount not exceeding the credit limit. Current law had stated that the amount of insurance "shall at no time exceed the amount owed by the debtor that is repayable in installments to the creditor."

(4) The insurance is payable to the creditor or to any successor to the right, title, and interest of the creditor. The insurance payment must be used first to reduce or extinguish the unpaid indebtedness, with any excess payable to the estate of the insured.

Current law provides that the insurance is payable to the creditor, but does not address successors to the creditor's rights, and provides that the amount shall reduce or extinguish the unpaid indebtedness of the debtor to the extent of the payment, but does not address the distribution of excess amounts.

(5) The bill adds language applicable to insurance on agricultural credit transaction commitments and educational credit transaction commitments. Notwithstanding any of the bill's other provisions on group life insurance issued to creditors, insurance on agricultural credit transaction commitments may be written up to the amount of the loan commitment on a nondecreasing or level-term plan and insurance on educational credit transaction commitment may be written up to the amount of the loan commitment less the amount of any repayments made on the loan.

Life insurance issued to employee organizations

(sec. 3917.01(C))

Life insurance issued to a labor union, for the benefit of persons other than the union or any of its officials, continues to be a form of group life insurance. The bill expands this definition to include life insurance issued to a labor union or "similar employee organization" to insure the members of the union or organization for the benefit of persons other than the union or organization or any of its officials, "representatives, or agents." The union or organization is deemed the policyholder; current law defines the union as an "employer." As amended by the bill, this type of group life insurance must conform to all of the following requirements:

(1) All of the members of the union or organization, or all of any class or classes of the members, must be eligible for the insurance.

(2) The premium for the policy may be paid from the union or organization's funds, from funds contributed by the insured members specifically for the members' insurance, or from both. An insurer may exclude or limit coverage for an individual member if evidence for that person's insurability is not satisfactory to the insurer, otherwise, if the policy is funded solely by the organization or union, the policy must insure all eligible members except for those members who reject the coverage in writing.

Under a provision of current law, repealed by the bill, if premiums are paid by the union and its members jointly and offered to all eligible members, not less than 75% of the members must be insured. Supplemental insurance may be obtained without membership reaching this level of participation.

Life insurance issued to employee trusts

(sec. 3917.01(D))

Life insurance issued to a trust or to the trustees of a trust fund established or adopted by two or more employees, or by one or more labor unions, or by one or more employers and one or more labor unions, to insure employees of the employers or members of the unions for the benefit of persons other than the employers or unions, continues to be a form of group life insurance. The bill expands upon unions to include "similar employee organizations." As in current law, the trust or trustee is deemed the policyholder. As amended by the bill, this type of group life insurance must conform to all of the following requirements:

(1) All of the employees of the employers, all members of the unions or organizations, or all of any class or classes of the employees or members, must be eligible for insurance. The policy, much like current law, may provide that employees includes the employees of one or more subsidiary corporations and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietorships, or partnerships, if the business of the employer and of the affiliated corporations, proprietorships, or partnerships is under common control; may define employees to include the individual proprietor or partners if the employer is an individual proprietorship or a partnership; and may provide that employees includes retirees and former employees, the directors of a corporate employer, the trustees and the employees of the trustees if the employees' duties are principally connected with the trusteeship.

(2) The premium for the policy must be paid from funds contributed by the employers, by the unions or similar employee organizations, or from both, or from funds contributed by the insured persons or by both the insured persons and the employers or unions. An insurer may exclude or limit the coverage on any person if evidence for that person's insurability is not satisfactory to the insurer, otherwise, if no part of a policy's premium is paid by insured persons specifically for their insurance, the policy must insure all eligible persons except those persons who reject the coverage in writing.

Under a provision of current law, repealed by the bill, if any part of the policy premiums are paid from funds contributed by the insured employees, not less than 75% of the then-eligible employees must be insured.

Life insurance issued to associations

(sec. 3917.01(E))

Life insurance issued to an association or to a trust or the trustees of a fund established, created, or maintained for the benefit of the members of one or more associations, continues to be a form of group life insurance. The association, trust or trustee, or an agent, is deemed the policyholder; current law defines the association as the "employer." As amended by the bill, this type of group life insurance must conform to all of the following requirements:

(1) The association or associations must have at the outset a minimum of 100 persons, have been organized and maintained in good faith for purposes other than that of obtaining insurance, have been in active existence for at least two years, and have a constitution and bylaws providing for all of the following: (a) holding regular meetings not less than annually to further purposes of the members, (b) except for credit unions, the collection of dues or contributions from

members, and (c) member voting privileges and member representation on the association's governing board and committees.

(2) The group life insurance policy may insure one or more of the members of the association or associations, employees of the association or associations, or the employees of members, or all of any class or classes of employees or members, for the benefit of persons other than an employee's employer. The policy premium must be paid from funds contributed by the association or associations, or by employer members, or by both, or from funds contributed by the covered members or employees, or from both the covered members and employees and the association or associations or employer members. An insurer may exclude or limit an employee or member's coverage if evidence for that person's insurability is not satisfactory to the insurer, otherwise, if no part of the policy's premium is paid by the covered members and employees specifically for the covered members' and employees' insurance, the policy must cover all eligible members and employees except those who reject the coverage in writing.

Current law defines this type of group life insurance as life insurance covering members and employees of an association in existence for a minimum of two years prior to the association's purchase of insurance, organized and maintained for a purpose other than obtaining insurance, which insurance must cover at least 50 members. The insurance must insure members and employees for amounts of insurance based on a plan that precludes individual selection.

Separate provisions in current law that pertain to certain specified associations, including veterans associations, organizations of agriculturalists and horticulturists, and the National Guard and militia, are repealed by the bill.

Life insurance issued to credit unions

(sec. 3917.01(F))

Life insurance issued to a credit union, for the benefit of persons other than the credit union or its officers, continues to be a form of group life insurance. The bill amends this form of group life insurance to include life insurance issued to a trustee or trustees or agent designated by two or more credit unions, to insure the members of the credit union or credit unions for the benefit of persons other than the credit union or credit unions, trust or trustees, or agents or officials of the credit union or credit unions or trust. The bill deems the credit union, trustee or trustees, or agent, as the policyholder; current law defines the credit union as an "employer." As amended by the bill, this type of group life insurance must conform to all of the following requirements:

(1) All of the members of the credit union or credit unions, or all of any class or classes of the members, must be eligible for insurance.

(2) The policy premium is paid by the policyholder from the credit union's funds.

(3) The policy must insure all eligible members unless evidence for an individual's insurability is not satisfactory to the insurer, in which case the insurer may exclude or limit coverage for that individual. No provision is included, as elsewhere in the bill, for members to reject the coverage in writing.

Current law, amended or repealed by the bill, applies to life insurance covering all of the eligible members of a credit union for amounts not in excess of each member's share balance, the premium on which is paid by the credit union or the credit union and its members jointly, provided that if the premium is paid jointly not less than 75% of all eligible members must be insured. The life insurance must be for the benefit of persons other than the credit union or its officers. The current law permits the use of age-based classifications in determining an individual member's eligibility, and a member also may be required to provide evidence of individual insurability satisfactory to the insurer. The credit union is required to consider proposals from any licensed insurer.

Other forms of group life insurance

(sec. 3917.01(H) and (I))

The bill provides that life insurance policies covering the members of groups not listed above also may be classified as group life insurance, subject to the Superintendent of Insurance finding that the issuance of the policy is not contrary to the best interest of the public, would result in economies of acquisition or administration, and that the policy provides benefits that are reasonable in relation to the premiums charged. The bill prohibits an insurer from offering group life insurance in Ohio under a policy issued in another state unless the Superintendent of Insurance, or the insurance regulatory authority of a state with requirements substantially similar to those of Ohio, makes a determination that the requirements of these provisions have been met. Policy premiums must be paid either from the policyholder's funds or from funds contributed by the insured members, or from both. An insurer may exclude or limit the coverage on any member as to whom evidence of individual insurability is not satisfactory to the insurer, otherwise, the policy must insure all eligible members except those who reject the coverage in writing.

Continuing law, amended by the bill, defines life insurance covering the members of a workforce actively engaged in an occupation for and performing

services on behalf of a corporation, limited liability company, partnership, proprietorship or similar organization, whose members are not employees of the organization, as a form of group life insurance. Currently, however, this type of insurance is not group life insurance if benefits are offered to all eligible members and the premium is paid by the organization and its members jointly, unless no less than 75% of the members are insured. The bill repeals this percentage participation requirement.

Notice for other forms of life insurance

(sec. 3917.02)

The bill requires an insurer to provide written notice to prospective insureds if the insurer sells life insurance on a group basis that does not qualify as one of the forms of group life insurance enumerated under section 3917.01 of the Revised Code. The bill requires an insurer to distribute a written notice to prospective insureds stating that compensation will or may be paid, if compensation of any kind will or may be paid, to one of the following persons:

(1) A policyholder, or sponsoring or endorsing entity, in the case of a group policy. A "sponsoring or endorsing entity" is defined by the bill as an organization that has arranged for the offering of a program of insurance in a manner that communicates that eligibility for participation is dependent upon a person's affiliation with an organization or that an organization encourages participation in the program.

(2) A sponsoring or endorsing entity in the case of an individual, blanket, or franchise policy marketed by means of a direct response solicitation. "Direct response solicitation" is defined by the bill as a solicitation made through a sponsoring or endorsing entity through the mail, telephone, or other mass communication media.

The required notice must be distributed whether the potential compensation is direct or indirect and whether the compensation is paid to or retained by the policyholder, the sponsoring or endorsing entity, a third-party, or an entity affiliated with the third-party by way of ownership, contract, or employment, at the direction of the policyholder or sponsoring or endorsing entity. The required notice must be placed on or accompany an application or enrollment form provided to prospective insureds.

Coverage of dependents

(sec. 3917.03)

Under continuing law, any group life insurance, except for life insurance issued to creditors and their parent holding companies or a designated agent or trustee of creditors, may be extended to insure an employee's or member's dependents, as defined by the policy, or any class or classes of dependents. The premium for the dependent's insurance must be paid either from funds contributed by the employer, union, association, or other person to whom a policy has been issued, or from funds contributed by the insured persons, or from both.

Under the bill, an insurer may exclude or limit the coverage on an individual dependent if evidence for that individual's insurability is not satisfactory to the insurer, otherwise, a policy on which no part of the premium for a dependent's coverage is derived from funds contributed by the covered persons must insure the dependents of all eligible employees or members or a class or classes of dependents. Current law (R.C. 3917.01(C)), repealed by the bill, requires the amount of insurance issued under a policy to be based upon a plan that precludes individual selection, and provides that if insurance coverage is lost due to a spouse's death or the termination of a spouse's employment, the dependent spouse has the same conversion rights as provided by the policy to the insured spouse.

Group life insurance policy provisions

(sec. 3917.06)

Current law states that a group life insurance policy may not be issued or delivered in Ohio until a copy of the policy is filed with the Superintendent of Insurance and formally approved by the Superintendent. The substance of provisions enumerated in the law must be included in all group life insurance policies.

The bill amends current law by allowing group life insurance that does not contain the substance of listed provisions to be delivered in Ohio if the policy contains provisions, "that in the opinion of the Superintendent of Insurance are more favorable to the persons insured, or at least as favorable to the persons insured and more favorable to the policyholder." Most of the provisions in current law are amended in form and substance by the bill, as follows:

(1) Currently, a provision must be included that states a policy is incontestable after two years from the policy's issue date, except for nonpayment of premium or for a "violation of the conditions of the policy relating to military or

naval service in time of war." The language pertaining to military or naval service in time of war is repealed by the bill although the rest of the current "incontestability" provision remains. The bill adds a provision that prohibits the use of statements made by an insured relating to the individual's insurability in contesting the validity of the insurance with respect to which the statement was made, if the insurance previously was in force for two years, unless the statement is contained in a written instrument signed by the individual. The bill provides that insurers are permitted, despite this provision, to assert defenses at any time that are based on provisions of the policy that relate to eligibility for coverage.

(2) Current law requires a provision stating that the policy and application submitted in connection with the policy constitutes the entire contract between the parties and deeming all statements contained in the application, in the absence of fraud, to be representations and not warranties, which statements may not be used as a defense to a claim brought under the policy unless it is contained in a written application. The bill requires that a copy of the policyholder's application be attached to the policy when issued. The bill deems all statements of policyholders and insureds to be representations and not warranties, rather than just those contained in an application, but permits the use of an insured's statement in a contest if a copy of the instrument containing the statement is furnished to the insured, or in the event of the insured's death or incapacity to the insured's beneficiary or personal representative.

(3) Current law requires a provision for the adjustment of premiums or benefits when an insured's age has been misstated. The bill requires that the provision contain a clear statement of the method of adjustment.

(4) Current law requires a provision stating that the insurer will issue to the policyholder, for delivery to each insured, a certificate setting forth the insurance protection to which the insured is entitled and to whom the benefits are payable. The bill requires that the certificate also include a statement of any coverage provided to dependents and a statement of an insured's rights and conditions upon termination of employment, disability, or death.

(5) Continuing law requires a provision that allows an insured to obtain individual coverage, without evidence of insurability, if the insured loses group coverage due to termination of the insured's employment or applicable membership. The employee or member must apply for coverage and pay the applicable premium within 31 days following their termination. The bill adds language, extending access to individual coverage upon termination of an insured's employment or membership if any part of the coverage on the insured, or on the insured's dependents, ceases. However, under the bill, insureds are no longer entitled to disability or supplementary benefits under the individual coverage issued. Under current law, an individual may obtain insurance in "any one of the

forms customarily issued by the company, except term insurance"; the bill amends this, to "any one of the forms customarily issued by the insurer to that age." Current law permits insurers to make coverage available in any amount not in excess of the amount of the insured's coverage at the time of the individual's termination or loss of applicable membership. The bill repeals this limit and sets the limit as an amount of insurance not in excess of the amount of coverage that ceases because of the insured's termination "less the amount of any life insurance for which the person is eligible under the same or any other group policy within thirty-one days after termination," not including any amount of insurance that has matured on or before the date of termination as an endowment payable to the insured whether in a lump sum, installments, or an annuity. The bill adds an additional condition, setting the premium on the individual policy at the insurer's then customary rate applicable to the form and amount of the individual's policy, the individual's class of risk, and the individual's age on the effective date of the individual policy. The bill makes the individual coverage available to surviving dependents, if any, at the death of the employee or member, with respect to the coverage under the group policy that terminates by reason of the employee's or member's death, and to the dependents of an employee or member upon the termination of the dependent's coverage, by reason of the dependent ceasing to be a dependent under the group policy, while the employee or member remains insured under the policy.

The bill also adds a provision, granting an individual who is not given notice of the right to obtain individual coverage at least 15 days prior of the expiration of the required 31-day application period an additional 15 days to exercise that right following the individual's receipt of such notice, "but in no event shall the period extend beyond sixty days after the expiration date of the period provided in the policy." Written notice provided to an individual or mailed by the policyholder to the insurer to the last known address of the individual, as furnished by the policyholder, constitutes notice for this purpose. The bill provides that nothing in this language is to be construed to continue any insurance beyond the expiration date of the period provided in the policy.

A continuing provision that is required for group life insurance policies entitles persons insured under a group policy for at least five years prior to the termination of a group policy or the termination of coverage for a class of insureds, to an individual policy of life insurance. Current law permits the group policy to limit the amount of coverage to the smaller of \$2,000 or the amount of the terminated insurance less the amount of any life insurance for which the person becomes eligible under another group policy issued or reinstated within 31 days after the termination. The bill raises the \$2,000 limit to \$10,000 and entitles the insured's dependants to this individual coverage as well. Continuing law entitles insureds to receive benefits during the period of conversion to individual

coverage, whether or not an application has been completed or the first premium paid.

The bill repeals a number of provisions required in group life insurance policies under current law, including:

(1) A provision requiring an insurer to add to the group or class of insureds all new employees or members eligible for insurance.

(2) A provision requiring policies issued to labor unions to include a notice that the annual renewable term premium depends upon the attained age of the members in the group and increases with advancing age.

(3) A provision requiring a group life insurance policy and related application to be available for inspection by a beneficiary of the policy or an authorized representative of the beneficiary during regular business hours at the office of the policyholder where the policy is on file.

A provision that permits out-of-state insurers to include provisions required by the law of other states, territories, or districts where the insurer is organized, and permits Ohio insurers to include in policies delivered in other states or countries any provision required or permitted by the laws of the state, territory, district, or country where issued, is also repealed by the bill. Under current law, these policies may be issued in Ohio if the Superintendent of Insurance believes that provisions of the policy are more favorable to the policyholder or insured than Ohio's requirements.

The bill adds the following new provisions that must be included in group life insurance policies:

(1) A provision permitting an insured to continue coverage during the insured's total disability, when active employment is a condition of insurance, by timely payment to the policyholder of that portion of the premium, if any, that would have been required from the insured if the total disability had not occurred. The continuation must be on a premium basis for six months after the date on which the insured's total disability started, but not later than the earlier of the discontinuance of the group life insurance policy or of the insurer approving the continuation of the coverage under any disability provision in the group policy.

(2) A provision requiring a life insurer insuring the lives of debtors to furnish to the policyholder for delivery to each debtor a certificate of insurance describing the coverage and specifying that the death benefit first will be applied to reduce or extinguish the debtor's unpaid indebtedness. The bill's provisions relating to the payment of insurance benefits upon an insured's termination of

employment, disability, death, or active employment, do not apply to group policies insuring the lives of debtors.

(3) A provision requiring any sum becoming due by reason of the death of the insured be payable to the beneficiary designated by the insured. The bill provides, however, that if the policy contains conditions pertaining to family status, the beneficiary may be the family member specified by the terms of the policy subject to provisions concerning the lack of a designated beneficiary for all or part of the benefits at the time of the insured's death and subject to any rights reserved in the policy by the insurer and set forth in the certificate to pay, at the insurer's option, a part of the sum not exceeding \$2,000 to any beneficiary that the insurer believes is equitably entitled to the amount by reason of having incurred funeral or other expenses incident to the last illness or death of the insured.

(4) If a group policy is other than a term plan of insurance, a nonforfeiture provision or provisions, which, in the opinion of the Superintendent of Insurance, are equitable to the insureds and the policyholder. The bill provides that this provision may not be construed as requiring group life insurance policies to contain the same nonforfeiture provisions as are required for individual life insurance policies.

The bill specifies that the requirements in Chapter 3915. of the Revised Code pertaining to the provisions that must be included in other life insurance policies do not apply to group life insurance policies, with the exception of a provision requiring the settlement of a claim within two months after the insurer's receipt of due proof of the insured's death.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	04-12-05	p. 386

h0193-i-126.doc/kl