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National Council of Insurance Legislators (NCOIL)

Life Insurance is a Promise for Life Model Act

**Sponsored by Sen. Travis Holdman (IN) – NCOIL Immediate Past President*

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Section 1. Title

This Act shall be known and cited as the “[State] Life Insurance is a Promise for Life Act.”

Section 2. Legislative findings and purpose

Under long-established life insurance norms, carriers make a promise for life: They assess the applicant’s known risk, match premiums to benefits by treating like risks alike, then treat risks of the same class and equal expectation of life at policy issuance the same throughout the duration of their policies, according to the terms set at issuance. Treating like risks alike encompasses the traditional and accepted anti-tontine principle that persisting policyholders may not receive higher surrender benefits in relation to their premiums than received by prior surrendering policyholders of the same risk class.

Sections 4 and 5, consistent with these established standards, do not change, but rather support the implementation of, bedrock insurance law and policy. Section 4 affirmatively requires the insurance commissioner to take regulatory action against what is already illegal: Unfairly discriminatory enhancements to cash surrender benefits on seasoned policies which—for the purpose of inducing termination of the very purpose of life insurance, the death benefit—offer identical risks more in return for the same premiums than received by prior surrendering policyholders. Section 5 ensures informed underwriting and risk classification making in an information age, without asymmetries and adverse selection, by codifying the insurer’s historical access to pertinent risk information. Section 6 creates new consumer protection law (in most states) in the information age by prohibiting insurers from requiring genetic testing for applicants.

Section 3. Definitions

- (a) “Cash surrender value” means any amount that is paid by the insurer in return for the policyholder’s surrender or termination of the death benefit of the policy.
- (b) “Genetic information” means information regarding the presence or absence of variations or mutations, including carrier status, in an individual’s genetic material or genes that are scientifically or medically believed to cause a disease, disorder, or syndrome, or are associated with a statistically increased risk of developing a disease, disorder, or syndrome, which is asymptomatic in a person at the time of genetic testing or screening.
- (c) “Genetic testing or screening” means any method of obtaining genetic information from the proposed insured for an application for life insurance.

Section 4. Enforcing fair discrimination in cash surrender benefits

The insurance commissioner:

- (1) Must disapprove an endorsement or other amendment filed by the insurer that issued a life insurance policy if such a change would provide additional cash surrender value or otherwise modify the method of calculating the policy’s cash surrender value established at issuance;
- (2) Must rescind any regulatory approval or acceptance of an endorsement or other amendment described in subparagraph (1) above that was granted before the effective date of this law, as having been inconsistent with law at the time the approval was granted; and
- (3) Must otherwise prohibit and prevent insurers from engaging in any other method of providing additional cash surrender value or otherwise modifying the method of calculating cash surrender values after policy issuance.

Section 5. Ensuring accurate risk classification

An insurer may require an applicant for a life insurance policy to provide any information known to the applicant or anyone else providing information on the application that is pertinent to the longevity risk posed by the insured, including genetic information resulting from any screening or testing regarding the individual's susceptibility to future health conditions.

Section 6. Protecting consumers from unreasonable testing requirements

Notwithstanding section (5):

(a) A life insurance policy shall not be underwritten on the basis of a requirement that the applicant or insured individual undergo genetic testing or screening; and

(b) The issuance of a life insurance policy shall not be conditioned on the requirement that the applicant or insured individual undergo genetic testing or screening.

Section 7. Rules

The Commissioner shall adopt rules as necessary to effectuate the provisions of this Act.

Section 8. Effective Date

This Act shall take effect xxxxxxxx.