

1 HB78  
2 125353-1  
3 By Representatives Wren, Canfield, Brown and Faust  
4 RFD: Insurance  
5 First Read: 01-MAR-11

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8 SYNOPSIS: This bill would create the Beneficiaries'  
9 Bill of Rights.

10 This bill would require complete and proper  
11 disclosure, transparency, and accountability  
12 relating to any method of payment for life  
13 insurance death benefits.

14 Amendment 621 of the Constitution of Alabama  
15 of 1901, now appearing as Section 111.05 of the  
16 Official Recompilation of the Constitution of  
17 Alabama of 1901, as amended, prohibits a general  
18 law whose purpose or effect would be to require a  
19 new or increased expenditure of local funds from  
20 becoming effective with regard to a local  
21 governmental entity without enactment by a 2/3 vote  
22 unless: it comes within one of a number of  
23 specified exceptions; it is approved by the  
24 affected entity; or the Legislature appropriates  
25 funds, or provides a local source of revenue, to  
26 the entity for the purpose.

1                   The purpose or effect of this bill would be  
2                   to require a new or increased expenditure of local  
3                   funds within the meaning of the amendment. However,  
4                   the bill does not require approval of a local  
5                   governmental entity or enactment by a 2/3 vote to  
6                   become effective because it comes within one of the  
7                   specified exceptions contained in the amendment.

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9                   A BILL  
10                  TO BE ENTITLED  
11                  AN ACT

12  
13                  To create the Beneficiaries' Bill of Rights; to  
14                  require complete and proper disclosure, transparency, and  
15                  accountability relating to any method of payment for life  
16                  insurance death benefits; and in connection therewith would  
17                  have as its purpose or effect the requirement of a new or  
18                  increased expenditure of local funds within the meaning of  
19                  Amendment 621 of the Constitution of Alabama of 1901, now  
20                  appearing as Section 111.05 of the Official Recompilation of  
21                  the Constitution of Alabama of 1901, as amended.

22                  BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23                  Section 1. This act shall be known and may be cited  
24                  as the Beneficiaries' Bill of Rights.

25                  Section 2. This act requires complete and proper  
26                  disclosure, transparency, and accountability relating to any  
27                  method of payment for life insurance death benefits and

1 requires that beneficiaries are fully and clearly informed of  
2 their options.

3 Section 3. For the purposes of this act, the  
4 following terms shall have the following meanings:

5 (1) POLICY. Any policy or certificate of life  
6 insurance that provides a death benefit.

7 (2) RETAINED ASSET ACCOUNT. Any mechanism whereby  
8 the settlement of proceeds payable under a life insurance  
9 policy, including, but not limited to, the payment of cash  
10 surrender value, is accomplished by the insurer or an entity  
11 acting on behalf of the insurer depositing the proceeds into  
12 an account, where those proceeds are retained by the insurer,  
13 pursuant to a supplementary contract.

14 Section 4. (a) An insurer may not use a retained  
15 asset account as the mode of settlement unless the insurer  
16 discloses such option to the beneficiary or the legal  
17 representative of the beneficiary before the transfer of the  
18 death benefit to a retained asset account.

19 (b) A beneficiary shall be informed of his or her  
20 rights to receive a lump-sum payment of life insurance  
21 proceeds in the form of a bank check.

22 Section 5. (a) A complete description and  
23 explanation of all of the life insurance proceeds payment  
24 options available to the beneficiary, in written or electronic  
25 format, shall precede or accompany the tender of other than a  
26 lump-sum payment of a life insurance death benefit.

1 (b) The use of a retained asset account shall  
2 require in the description and explanation provided pursuant  
3 to subsection (a) all of the following:

4 (1) The recommendation to consult a tax, investment,  
5 or other financial advisor regarding tax liability and  
6 investment options.

7 (2) The initial interest rate, when and how interest  
8 rates may change, and any dividends and other gains that may  
9 be paid or distributed to the account holder.

10 (3) The custodian of the funds or assets of the  
11 account.

12 (4) The coverage guaranteed by the Federal Deposit  
13 Insurance Corporation (FDIC) and the amount of the coverage.

14 (5) The limitations, if any, on the numbers and  
15 amounts of withdrawals of funds from the account or  
16 investment, including any minimum or maximum benefit payment  
17 amounts.

18 (6) The delays, if any, that the account holder may  
19 encounter in completing authorized transactions and the  
20 anticipated duration of such delays.

21 (7) The services provided for a fee, including a  
22 list of the fees or the method of their calculation.

23 (8) The nature and frequency of statements of  
24 account.

25 (9) That the payment of some or all of the proceeds  
26 of the death benefit may be by the delivery of checks, drafts,  
27 or other instruments to access the available funds.

1           (10) That the entire proceeds are available to the  
2 account holder by the use of one such check, draft, or other  
3 instrument.

4           (11) That the insurer or a related party may derive  
5 income, in addition to any fees charged on the account, from  
6 the total gains received on the investment of the balance of  
7 funds in the account.

8           (12) The telephone number, address, and other  
9 contact information, including website address, to obtain  
10 additional information regarding the account.

11           (13) The following statement: "FOR FURTHER  
12 INFORMATION, PLEASE CONTACT THE ALABAMA DEPARTMENT OF  
13 INSURANCE."

14           (c) The writings produced to satisfy the  
15 requirements of this section shall be in easy-to-understand  
16 language and in a conspicuous boldface or at least 12-point  
17 type.

18           Section 6. (a) Insurers shall annually report all of  
19 the following information to the Alabama Department of  
20 Insurance:

21           (1) The number and dollar balance of retained asset  
22 accounts in force at the beginning of the year.

23           (2) The number and dollar amount of retained asset  
24 accounts issued or added, or both, during the year.

25           (3) The number and dollar amount of retained asset  
26 accounts closed out or withdrawn, or both, during the year.

1           (4) The number and dollar balance of retained asset  
2 accounts in force at the end of the year.

3           (5) The investment earnings credited to retained  
4 asset accounts.

5           (6) Fees and other charges assessed during the year.

6           (7) A description of the interest rate or rates paid  
7 on retained asset accounts and the methodology and factors  
8 used to determine the interest rate or rates paid to  
9 beneficiaries with such accounts.

10          (8) The total number and value of retained asset  
11 accounts that have been in existence for one year, three  
12 years, and five years.

13          (9) The identity of any entity or financial  
14 institution that administers retained asset accounts on behalf  
15 of the insurer.

16          (10) The number and amounts of retained asset  
17 accounts that are transferred annually to the State Treasurer  
18 pursuant to the Uniform Disposition of Unclaimed Property Act  
19 of 2004.

20          (11) Any other information relating to retained  
21 asset accounts as prescribed by the Alabama Department of  
22 Insurance.

23          (b) An insurer shall immediately return any  
24 remaining balance held in a retained asset account to the  
25 beneficiary when the account becomes inactive. A retained  
26 asset account shall become inactive for purposes of this  
27 subsection if no funds are withdrawn from the account, and if

1 no affirmative directive has been provided to the insurer by  
2 the beneficiary, during any continuous four-year period.

3 Section 7. Failure to meet any requirement of this  
4 act is a violation of the Deceptive Trade Practices Act.

5 Section 8. This act shall apply to claims for a  
6 death benefit under any policy or certificate of life  
7 insurance subject to the insurance laws of the state where the  
8 beneficiary resides submitted on or after the effective date  
9 of this act.

10 Section 9. Although this bill would have as its  
11 purpose or effect the requirement of a new or increased  
12 expenditure of local funds, the bill is excluded from further  
13 requirements and application under Amendment 621, now  
14 appearing as Section 111.05 of the Official Recompilation of  
15 the Constitution of Alabama of 1901, as amended, because the  
16 bill defines a new crime or amends the definition of an  
17 existing crime.

18 Section 10. This act shall become effective on the  
19 first day of the third month following its passage and  
20 approval by the Governor, or its otherwise becoming law.