



SPONSOR: Rep. Mulrooney & Rep. Keeley & Sen. McDowell  
Reps. Smyk, Walker; Sens. Blevins, Bonini, Ennis

HOUSE OF REPRESENTATIVES  
147th GENERAL ASSEMBLY

HOUSE BILL NO. 87

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO INSURANCE CONTRACTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend §2704, Title 18 of the Delaware Code, by making insertions as shown by underlining as  
2 follows:

3 (h) In any instance in which a life insurance contract is rescinded, voided or otherwise terminated or  
4 extinguished in accordance with law because such insurance contract was procured by an individual or a person not having  
5 an insurable interest pursuant to this section or was issued in violation of §2705 or §2708, the insurer shall pay to the owner  
6 of the insurance contract at the time such contract was rescinded, voided or otherwise terminated or extinguished an amount  
7 equal to the total premiums paid.

8 (1) This subsection does not apply to the owner of an insurance contract who engaged directly in a violation of  
9 this section or §2705 or §2708 by procuring or causing to be procured an insurance contract upon the life or body of  
10 another individual the benefits under which were payable to a person who, at the time such contract was made, had no  
11 insurable interest in the individual insured.

12 (2) Upon any transfer of ownership of a life insurance contract, the new owner of such insurance contract shall  
13 provide to the life insurance company that issued the policy notice of the change of ownership, including the name, address  
14 and contact information for the new owner of such contract within 120 days of the transfer of ownership.

15 Section 2. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the  
16 invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision  
17 or application; and, to that end, the provisions of this Act are declared to be severable.

18 Section 3. The provisions of this Act shall apply to all insurance contracts for which premiums have been paid as  
19 of the effective date of this Act and to all policies issued or transferred thereafter.

### SYNOPSIS

This bill codifies the common law and protects the secondary market for life insurance in Delaware. The common law rule in Delaware is that an insurer cannot rescind or otherwise invalidate a life insurance policy unless it refunds the premiums that it has collected on the policy. Some insurers, however, have ignored this well-settled rule and continue to file lawsuits that seek to rescind the life insurance policies they issued and allow them to keep the premiums paid on those policies. This bill eliminates any possible uncertainty about the state of the law by adopting the common law rule.

The bill also advances three other goals that are important to Delaware consumers. First, it provides necessary certainty to investors who purchase life insurance policies in the secondary market. That market, in turn, benefits Delaware consumers—particularly senior citizens—by giving them the chance to sell a life insurance policy that they no longer want or need for a substantially higher price than the cash surrender value of the policy. Second, the bill eliminates the undesirable effect of incentivizing insurance companies to bring rescission suits as late as possible as they continue to collect premiums at no actual risk. Third, the bill eliminates the risk of expensive and unnecessary litigation for owners of life insurance policies issued in this State by establishing a clear and unambiguous rule that is consistent with existing case law.