

LEGISLATIVE BILL 47

Approved by the Governor March 13, 1997

Introduced by Crosby, 29

AN ACT relating to insurance; to amend sections 44-371 and 44-1089, Reissue Revised Statutes of Nebraska; to change provisions exempting annuity contracts and life insurance proceeds from claims of judgment creditors as prescribed; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 44-371, Reissue Revised Statutes of Nebraska, is amended to read:

44-371. (1)(a) All proceeds, cash values, and benefits accruing under any annuity contract, under any policy or certificate of life insurance payable upon the death of the insured to a beneficiary other than the estate of the insured, or under any accident or health insurance policy shall be exempt from attachment, garnishment, or other legal or equitable process and from all claims of creditors of the insured and of the beneficiary if related to the insured by blood or marriage, unless a written assignment to the contrary has been obtained by the claimant.

(2) (b) This section ~~subsection~~ shall not apply to an individual's aggregate interests greater than ten thousand dollars on all loan values or cash values of all matured or unmatured life insurance contracts or to all proceeds, cash values, or benefits accruing under all annuity contracts owned by such individual. Notwithstanding anything in this ~~subsection~~ subdivision to the contrary, the aggregate exemptions any person may claim under this subdivision and subdivision (2)(b) subsection and subsection (3) of section 44-1089 shall not exceed ten thousand dollars.

(3) (c) No insurance company shall be liable or responsible to any person to determine or ascertain the aggregate total of life insurance policy or annuity contract loan values, cash values, proceeds, or benefits for any policyholder or annuitant.

(2) Notwithstanding subsection (1) of this section, proceeds, cash values, and benefits accruing under any annuity contract or under any policy or certificate of life insurance payable upon the death of the insured to a beneficiary other than the estate of the insured shall not be exempt from attachment, garnishment, or other legal or equitable process by a judgment creditor of the beneficiary if the judgment against the beneficiary was based on, arose from, or was related to an act, transaction, or course of conduct for which the beneficiary has been convicted by any court of a crime punishable only by life imprisonment or death. No insurance company shall be liable or responsible to any person to determine or ascertain the existence or identity of any such judgment creditor prior to payment of any such proceeds, cash values, or benefits. This subsection shall apply to any judgment rendered on or after January 1, 1995, irrespective of when the criminal conviction is or was rendered and irrespective of whether proceedings for attachment, garnishment, or other legal or equitable process were pending on the effective date of this act.

Sec. 2. Section 44-1089, Reissue Revised Statutes of Nebraska, is amended to read:

44-1089. (1) No noninsurance benefit, charity, relief, or aid to be paid, provided, or rendered by any society shall be liable to attachment, garnishment, or other process, or to be seized, taken, appropriated, or applied by any legal or equitable process or operation of law to pay any debt or liability of a member or beneficiary, or any other person who may have a right thereunder, either before or after payment by the society.

(2)(a) All proceeds, cash values, and benefits accruing under any annuity contract, under any policy or certificate of life insurance payable upon the death of the insured to a beneficiary other than the estate of the insured, or under any accident or health insurance policy shall be exempt from attachment, garnishment, or other legal or equitable process and from all claims of creditors of the insured and of the beneficiary if related to the insured by blood or marriage, unless a written assignment to the contrary has been obtained by the claimant.

(3) (b) This ~~section~~ subsection shall not apply to an individual's aggregate interests greater than ten thousand dollars on all loan values or cash values of all matured or unmatured life insurance contracts or to all proceeds, cash values, or benefits accruing under all annuity contracts owned

by such individual. Notwithstanding anything in this subsection subdivision to the contrary, the aggregate exemptions any person may claim under subsection (2) subdivision (1)(b) of section 44-371 and this subsection subdivision shall not exceed ten thousand dollars.

(4) (c) No fraternal benefit society shall be liable or responsible to any person to determine or ascertain the aggregate total of policy or certificate of life insurance or annuity contract loan values, cash values, proceeds, or benefits for any policy or certificate owner or annuitant.

(3) Notwithstanding subsection (2) of this section, proceeds, cash values, and benefits accruing under any annuity contract or under any policy or certificate of life insurance payable upon the death of the insured to a beneficiary other than the estate of the insured shall not be exempt from attachment, garnishment, or other legal or equitable process by a judgment creditor of the beneficiary if the judgment against the beneficiary was based on, arose from, or was related to an act, transaction, or course of conduct for which the beneficiary has been convicted by any court of a crime punishable only by life imprisonment or death. No fraternal benefit society shall be liable or responsible to any person to determine or ascertain the existence or identity of any such judgment creditor prior to payment of any such proceeds, cash values, or benefits. This subsection shall apply to any judgment rendered on or after January 1, 1995, irrespective of when the criminal conviction is or was rendered and irrespective of whether proceedings for attachment, garnishment, or other legal or equitable process were pending on the effective date of this act.

Sec. 3. Original sections 44-371 and 44-1089, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 4. Since an emergency exists, this act takes effect when passed and approved according to law.