**South Carolina General Assembly**

124th Session, 2021-2022

**A191, R212, H4220**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Sandifer and Hardee

Document Path: l:\council\bills\jn\3397ph21.docx

Companion/Similar bill(s): 744

Introduced in the House on April 15, 2021

Introduced in the Senate on March 31, 2022

Last Amended on May 10, 2022

Passed by the General Assembly on May 12, 2022

Governor's Action: May 16, 2022, Signed

Summary: Life Insurance

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 4/15/2021 House Introduced and read first time ([House Journal‑page 19](file:///h%3A%5Chj%5C20210415.docx))

 4/15/2021 House Referred to Committee on **Labor, Commerce and Industry** ([House Journal‑page 19](file:///h%3A%5Chj%5C20210415.docx))

 2/24/2022 House Committee report: Favorable with amendment **Labor, Commerce and Industry** ([House Journal‑page 14](file:///h%3A%5Chj%5C20220224.docx))

 3/1/2022 House Member(s) request name added as sponsor: Murray

 3/1/2022 House Requests for debate‑Rep(s).  Wheeler, Weeks, Stavrinakis, Wetmore, KO Johnson, Daning, Garvin, Tedder, Finlay, S. Williams, McCravy, Herbkersman, Bernstein, JA Moore, Henderson‑Myers, McDaniel, King, Gilliard, Brawley, Howard, Hosey, Henegan, Alexander, Magnuson, Pope, Felder, McKnight, Hiott, Bryant, T. Moore, Dabney, Hixon, Carter, and May ([House Journal‑page 33](file:///h%3A%5Chj%5C20220301.docx))

 3/3/2022 House Member(s) request name removed as sponsor: Murray

 3/9/2022 House Debate adjourned ([House Journal‑page 20](file:///h%3A%5Chj%5C20220309.docx))

 3/10/2022 House Debate adjourned ([House Journal‑page 91](file:///h%3A%5Chj%5C20220310.docx))

 3/30/2022 House Amended ([House Journal‑page 28](file:///h%3A%5Chj%5C20220330.docx))

 3/30/2022 House Read second time ([House Journal‑page 28](file:///h%3A%5Chj%5C20220330.docx))

 3/30/2022 House Roll call Yeas‑95 Nays‑5 ([House Journal‑page 30](file:///h%3A%5Chj%5C20220330.docx))

 3/31/2022 House Read third time and sent to Senate ([House Journal‑page 19](file:///h%3A%5Chj%5C20220331.docx))

 3/31/2022 Senate Introduced and read first time ([Senate Journal‑page 6](file:///h%3A%5Csj%5C20220331.docx))

 3/31/2022 Senate Referred to Committee on **Banking and Insurance** ([Senate Journal‑page 6](file:///h%3A%5Csj%5C20220331.docx))

 4/26/2022 Senate Committee report: Favorable **Banking and Insurance** ([Senate Journal‑page 7](file:///h%3A%5Csj%5C20220426.docx))

 5/10/2022 Senate Amended ([Senate Journal‑page 51](file:///h%3A%5Csj%5C20220510.docx))

 5/10/2022 Senate Read second time ([Senate Journal‑page 51](file:///h%3A%5Csj%5C20220510.docx))

 5/10/2022 Senate Roll call Ayes‑44 Nays‑0 ([Senate Journal‑page 51](file:///h%3A%5Csj%5C20220510.docx))

 5/11/2022 Senate Read third time and returned to House with amendments ([Senate Journal‑page 9](file:///h%3A%5Csj%5C20220511.docx))

 5/12/2022 House Concurred in Senate amendment and enrolled ([House Journal‑page 81](file:///h%3A%5Chj%5C20220512.docx))

 5/12/2022 House Roll call Yeas‑98 Nays‑0 ([House Journal‑page 82](file:///h%3A%5Chj%5C20220512.docx))

 5/12/2022 Scrivener's error corrected

 5/12/2022 Ratified R 212 ([Senate Journal‑page 223](file:///h%3A%5Csj%5C20220512.docx))

 5/16/2022 Signed By Governor

 5/31/2022 Effective date 05/16/22

 5/31/2022 Act No.  191

View the latest [legislative information](http://www.scstatehouse.gov/billsearch.php?billnumbers=4220&session=124&summary=B) at the website

**VERSIONS OF THIS BILL**

[4/15/2021](file:///p%3A%5Cpprever%5C2021-22%5C4220_20210415.docx)

[2/24/2022](file:///p%3A%5Cpprever%5C2021-22%5C4220_20220224.docx)

[3/30/2022](file:///p%3A%5Cpprever%5C2021-22%5C4220_20220330.docx)

[4/26/2022](file:///p%3A%5Cpprever%5C2021-22%5C4220_20220426.docx)

[5/10/2022](file:///p%3A%5Cpprever%5C2021-22%5C4220_20220510.docx)

[5/12/2022](file:///p%3A%5Cpprever%5C2021-22%5C4220_20220512.docx)

(A191, R212, H4220)

**AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38‑63‑230 SO AS TO PROVIDE FOR MUTUAL RESCISSION OF INDIVIDUAL LIFE INSURANCE POLICIES; AND TO AMEND SECTION 38‑63‑220, RELATING TO REQUIRED INDIVIDUAL LIFE INSURANCE POLICY PROVISIONS, SO AS TO ALLOW FOR THE MUTUAL DECISION TO TERMINATE OR RESCIND A POLICY OF INSURANCE.**

Be it enacted by the General Assembly of the State of South Carolina:

**Methods of rescission by insurer**

SECTION 1. Article 3, Chapter 63, Title 38 of the 1976 Code is amended by adding:

 “Section 38‑63‑230. (A) An insurer may rescind a life insurance policy within the two‑year contestability period in Section 38‑63‑220(d) by:

 (1) a mutual rescission agreement executed by all parties based on false statements included in the application; or

 (2) proving a fraudulent or material misrepresentation by clear and convincing evidence in a court of competent jurisdiction.

 (B) Mutual rescission of a policy may be accomplished by:

 (1) if the owner is living, mailing a certified letter to the last known address on record of the insured or policy owner. If the owner is deceased, mailing a certified letter to the beneficiary and the deceased’s estate, notifying the estate, insured, policy owner, or beneficiary, as appropriate, that the insurer is seeking a mutual rescission of the policy. The letter must state the policy is being rescinded for false statements included in the application and include the important notice language set forth in subsection (C). The letter must also specify which statements in the application were false along with a brief explanation of the facts supporting the determination that the statements were false;

 (2) including a check reimbursing the insured, policy owner, or beneficiary the premium paid to the insurer with language stamped on the back of the check that reads: ‘I understand that cashing or depositing this check voids the policy and no benefits will be payable under the policy and am agreeing to the rescission of this policy’; and

 (3) signing and cashing or depositing the premium reimbursement check by the insured, policyowner, or beneficiary, which will be deemed an acceptance of the proposed mutual rescission of the policy.

 (C) Any certified letter proposing the rescission of a life insurance policy during the contestability period must include the following language in 12‑point bold face type:

‘IMPORTANT NOTICE:

You are the insured, owner, or beneficiary of an insurance policy the company proposes to rescind. This letter is notice the company seeks your consent to void and rescind the policy issued to you or that names you as a beneficiary based on false statements made in the application for insurance. If rescinded, the policy is void and no benefits will be payable under the policy. You do not have to agree to the rescission of this policy. If you do not agree, do not cash or deposit the enclosed check. Return it to the insurer or destroy it.

By cashing or depositing the enclosed premium reimbursement check, you are agreeing to rescind this policy. No benefits will be due or payable under the voided policy. If you do not agree to rescind this policy, the insurer has the right, in its sole discretion, to bring a court action to rescind the policy in accordance with South Carolina law.

You also have the right to bring an action in court if your policy is canceled or your claim for benefits is denied for material misrepresentation.

You may want to speak with an attorney about this notice. If you have any questions concerning this proposal, either you or your attorney may contact the insurer at the number listed in the letter.

Information regarding the specific misrepresentation that was made in your policy and a brief explanation of the insurer’s determination that the representation is false is included with this letter.’

 (D) Insurance policies that are guaranteed issue or are not underwritten are not subject to mutual rescission.”

**Required policy provisions**

SECTION 2. Section 38‑63‑220(d) of the 1976 Code is amended to read:

 “(d) a provision that the policy and any rider or supplemental benefits attached to the policy are incontestable as to the truth of the application for insurance and to the representations of the insured individual after they have been in force during the lifetime of the insured for a period of two years from their date of issue. Any rider or supplemental benefits subsequently attached to the policy are incontestable as to the truth of the application for the rider or supplemental benefits and to the representations of the insured individual after they have been in force during the lifetime of the insured for a period of two years from their date of issue. If an insurer initiates a mutual rescission or institutes proceedings to vacate a policy on the ground of the falsity of the representations contained in the application for the policy, the proceedings or mutual rescission must commence within the time permitted in this subsection;”

**Time effective**

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 12th day of May, 2022.

Approved the 16th day of May, 2022.

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