

The Senate Insurance and Labor Committee offered the following substitute to HB 1304:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to
2 provide that neither the cash surrender values nor the proceeds of life insurance policies and
3 annuity contracts shall be liable to attachment, garnishment, or legal process in favor of any
4 creditor of the person for whose use or benefit the policy or contract was executed; to provide
5 that the proceeds of life insurance policies that are payable to the insured's estate or executor,
6 administrator, or assign shall become a part of the insured's estate to be administered as all
7 other estate assets; to provide for the discharge from liability for any insurer for payments
8 in accordance with such provisions; to provide for related matters; to provide an effective
9 date; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

11 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by
12 striking Code Section 33-25-11, relating to right of beneficiaries and assignees of insurance
13 policies to proceeds of life insurance policies, and inserting in lieu thereof a new Code
14 Section 33-25-11 to read as follows:

15 "33-25-11.

16 (a) ~~If a policy of life insurance is effected by any person on his own life or on another life
17 in favor of a person other than himself or, except in cases of transfer with intent to defraud
18 creditors, if a policy of life insurance is assigned or in any way made payable to any such
19 person, the lawful beneficiary or assignee thereof, other than the insured or the person so
20 effecting such insurance or executors or administrators of such insured or the person so
21 effecting the insurance, shall be entitled to its proceeds and avails as against the creditors
22 and representatives of the insured and of the person effecting the same, whether or not the
23 right to change the beneficiary shall be reserved or permitted and whether or not the policy
24 shall be made payable to the person whose life is insured if the beneficiary or assignee shall
25 predecease such person~~ Whenever any person residing in the state shall die leaving
26

1 insurance on his or her life, such insurance shall inure exclusively to the benefit of the
 2 person for whose use and benefit such insurance is designated in the policy, and the
 3 proceeds thereof shall be exempt from the claims of creditors of the insured unless the
 4 insurance policy or a valid assignment thereof provides otherwise. Whenever the
 5 insurance, by designation or otherwise, is payable to the insured or to the insured's estate
 6 or to his or her executors, administrators, or assigns, the insurance proceeds shall become
 7 a part of the insured's estate for all purposes and shall be administered by the personal
 8 representative of the estate of the insured in accordance with the probate laws of the state
 9 in like manner as other assets of the insured's estate.

10 ~~(b) Subject to the statute of limitations, the amount of any premiums for said insurance~~
 11 ~~paid with intent to defraud creditors with interest thereon shall inure to the benefit of~~
 12 ~~creditors from the proceeds of the policy; but the insurer shall be discharged of all liability~~
 13 ~~thereon by payment of its proceeds in accordance with its terms, unless before the payment~~
 14 ~~the insurer shall have received written notice, by or in behalf of a creditor, of a claim to~~
 15 ~~recover for transfer made or premiums paid with intent to defraud creditors, with~~
 16 ~~specifications of the amount claimed~~ Payments as directed in this Code section shall, in
 17 every such case, discharge the insurer from any further liability under the policy, and the
 18 insurer shall in no event be responsible for, or be required to see to, the application of such
 19 payments.

20 (c) The cash surrender values of life insurance policies issued upon the lives of citizens or
 21 residents of this state, upon whatever form, shall not in any case be liable to attachment,
 22 garnishment, or legal process in favor of any creditor of the person whose life is so insured
 23 unless the insurance policy was assigned to or was effected for the benefit of such creditor
 24 or unless the purchase, sale, or transfer of the policy is made with the intent to defraud
 25 creditors."

26 SECTION 2.

27 Said title is further amended by striking Code Section 33-28-7, relating to right of
 28 beneficiaries and assignees to proceeds of annuity, reversionary annuity, and pure
 29 endowment contracts as against creditors and representatives of persons effecting contracts,
 30 and inserting in lieu thereof a new Code Section 33-28-7 to read as follows:

31 "33-28-7.

32 ~~If an annuity, reversionary annuity, or pure endowment contract shall be effected by any~~
 33 ~~person, based on his own life or on another life, payable to a person other than himself, the~~
 34 ~~lawful beneficiary or assignee of the contract, other than the person effecting the contract~~
 35 ~~or his executors or administrators, shall be entitled to its proceeds and avails against the~~
 36 ~~creditors and representatives of the person effecting the contract to the same extent and~~

1 ~~under the same conditions provided with reference to the proceeds and avails of insurance~~
2 ~~policies in Code Section 33-25-11~~ The proceeds of annuity, reversionary annuity, or pure
3 endowment contracts issued to citizens or residents of this state, upon whatever form, shall
4 not in any case be liable to attachment, garnishment, or legal process in favor of any
5 creditor of the person who is the beneficiary of such annuity contract unless the annuity
6 contract was assigned to or was effected for the benefit of such creditor or unless the
7 purchase, sale, or transfer of the policy is made with the intent to defraud creditors."

8 **SECTION 3.**

9 This Act shall become effective upon its approval by the Governor or upon its becoming law
10 without such approval.

11 **SECTION 4.**

12 All laws and parts of laws in conflict with this Act are repealed.