STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

HOUSE BILL NO. 2490 BY: BASTIN

AS INTRODUCED

AN ACT RELATING TO INSURANCE; EXEMPTING CERTAIN MONEY AND BENEFITS FROM CERTAIN LEGAL PROCESS OR SEIZURE; PROVIDING EXCEPTIONS; PROVIDING FOR ASSIGNMENTS; PROVIDING SCOPE OF APPLICATION; REPEALING 36 O.S. 1991, SECTION 3631, WHICH RELATES TO EXEMPTION OF LIFE INSURANCE PROCEEDS FROM ATTACHMENT BY CREDITORS; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3631.1 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. All money or benefits of any kind, including policy proceeds and cash values, to be paid or rendered to the insured or any beneficiary under any policy of insurance issued by a life, health or accident insurance company, under any policy issued by a mutual benefit association, or under any plan or program of annuities and benefits, shall:

1. Inure exclusively to the benefit of the person for whose use and benefit the money or benefits are designated in the policy, plan or program;

2. Be fully exempt from execution, attachment, garnishment or other process;

3. Be fully exempt from being seized, taken or appropriated or applied by any legal or equitable process or operation of law to pay any debt or liability of the insured or of any beneficiary, either before or after said money or benefits is or are paid or rendered; and

4. Be fully exempt from all demands in any bankruptcy proceeding of the insured or beneficiary.

B. The exemptions provided by subsection A of this section shall apply without regard to whether:

1. The power to change the beneficiary is reserved to the insured; or

2. The insured or the insured's estate is a contingent beneficiary.

C. The exemptions provided by subsection A of this section do not apply to:

1. Premium payments made in fraud of creditors subject to the applicable statute of limitations for the recovery of the premium payments; or

2. A debt of the insured or beneficiary secured by a pledge of the policy or its proceeds.

D. This section shall not prevent the proper assignment of any money or benefits to be paid or rendered under an insurance policy, or any rights under the policy, by the insured or owner in accordance with the terms of the policy. A policy shall also be deemed to be payable to a person other than the insured if and to the extent that a facility-of-payment clause or similar clause in the policy permits the insurer to discharge its obligation after the

death of the individual insured by paying the death benefits to a person as permitted by such clause.

E. Wherever any policy of insurance or plan or program of annuities and benefits mentioned in subsection A of this section shall contain a provision against assignment or commutation by any beneficiary thereunder of the money or benefits to be paid or rendered thereunder, or any rights therein, any assignment or commutation or any attempted assignment or commutation by such beneficiary of such money or benefits or rights in violation of such provision shall be wholly void.

F. This section shall apply to money or benefits to be paid or rendered to an insured or a beneficiary under any policy, plan or program provided for in subsection A of this section without regard to whether the policy was issued or the plan or program was established before, on, or after September 1, 1992.

SECTION 2. REPEALER 36 O.S. 1991, Section 3631, is hereby repealed.

SECTION 3. This act shall become effective September 1, 1992.

43-2-8016 SD