

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas *As Engrossed:* H2/13/23 H2/27/23 S3/8/23 S3/27/23

94th General Assembly

A Bill

Regular Session, 2023

HOUSE BILL 1313

By: Representatives Hudson, Miller

By: *Senators R. Murdock, J. Dotson*

For An Act To Be Entitled

AN ACT TO AMEND THE EXEMPTIONS OF LIFE INSURANCE
PROCEEDS FROM ACTIONS BY CREDITORS AND
REPRESENTATIVES; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE EXEMPTIONS OF LIFE INSURANCE
PROCEEDS FROM ACTIONS BY CREDITORS AND
REPRESENTATIVES.

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

SECTION 1. Arkansas Code § 23-79-131(a)(1), concerning the exemption of life insurance proceeds from actions by creditors and representatives, is amended to read as follows:

(a)(1)(A) If a policy of insurance is effected by any person on his or her own life or on another life in favor of a person other than himself or herself or, except in cases of transfer with intent to defraud creditors, if a policy of life insurance is assigned or in any way made payable to the person, the lawful beneficiary or assignee of the policy, other than the insured or the person effecting the insurance or executors or administrators of the insured or the person effecting the insurance, shall be entitled to its proceeds and avails against the creditors and representatives of the insured and those of the person effecting the policy whether or not the right to change the beneficiary is reserved or permitted and whether or not the policy is made payable to the person whose life is insured, if the *beneficiary or assignee shall predecease such a person.*



(B) As used in this subsection, "proceeds and avails" means:

(i) The cash surrender value of a life insurance policy;

(ii) The proceeds of a life insurance policy;

(iii) The withdrawal value of any optional settlement or deposit with any company made under the terms of a life insurance policy; and

(iv) All other benefits, indemnities, payments, and privileges, of every kind from a life insurance policy.

(C) The exemption provided in subdivision (a)(1)(A) of this section applies to:

(i) Garnishment, attachment, execution, or other seizure;

(ii) Seizure, appropriation, or application by a legal or equitable process or by operation of law to pay a debt or other liability of an insured or of a beneficiary, either before or after the benefits are provided; and

(iii) A demand in a bankruptcy proceeding of the insured or beneficiary.

(D) The exemption provided in subdivision (a)(1)(A) of this section does not apply to:

(i) A pledge of the insurance policy or the proceeds of the insurance policy to secure an obligation for the repayment of debt in which the obligor is:

(a) The insured;

(b) The beneficiary

(c) A business entity in which the insured or the beneficiary held an ownership interest at the time the pledge was made; or

(d) A family member of the insured or the beneficiary;

(ii) A child support lien or levy;

(iii) A claim by the Department of Human Services against an estate under § 20-76-436; or

(iv) An insurance policy that has become an asset of

the insured.

(E) For purposes of the limitation on the personal property exemption stated in Arkansas Constitution, Article 9, § 2, "personal property" does not include life insurance proceeds that are payable:

(i) To a beneficiary other than the insured, including without limitation a charitable organization that qualifies as an exempt organization under 26 U.S.C. § 501(c)(3), as it existed on January 1, 2023;

(ii) For a permitted business use; or

(iii) To the spouse, children, or dependents of the insured.

/s/Hudson