

IN DETERMINING THE PREMIUM OR BENEFIT HAS BEEN MISSTATED, THE AMOUNT PAYABLE OR BENEFIT ACCRUING UNDER THE POLICY SHALL BE THE AMOUNT OR BENEFIT THAT THE PREMIUM WOULD HAVE PURCHASED HAD THE CORRECT AGE BEEN STATED.

(B) OPTION OF INSURER TO VOID POLICY.

(1) IF AN APPLICATION OR POLICY EXPRESSLY LIMITS THE INSURABLE AGE AND THE CORRECT AGE AT THE DATE OF ISSUE IS OUTSIDE THE INSURABLE AGE LIMIT, THE POLICY IS VOIDABLE AT THE OPTION OF THE INSURER DURING THE LIFETIME OF THE INSURED, BUT NOT LATER THAN 3 YEARS AFTER THE DATE OF ISSUE OF THE POLICY.

(2) IF THE INSURER EXERCISES THE OPTION TO VOID THE POLICY, THE INSURER SHALL RETURN TO THE INSURED THE AGGREGATE OF GROSS PREMIUMS CHARGED ON THE POLICY, LESS:

(I) DIVIDENDS PAID IN CASH OR USED TO PAY PREMIUMS ON THE POLICY; AND

(II) ANY INDEBTEDNESS TO THE INSURER ON THE POLICY, INCLUDING INTEREST DUE AND ACCRUED.

(3) THE INSURER MAY NOT EXERCISE THE OPTION TO VOID THE POLICY MORE THAN 30 DAYS AFTER THE CORRECT AGE IS ESTABLISHED.

(4) SUBJECT TO PARAGRAPH (5) OF THIS SUBSECTION, IF THE INSURER DOES NOT EXERCISE THE OPTION TO VOID THE POLICY OR IF THE AGE DISCREPANCY IS NOT DISCOVERED WITHIN 3 YEARS AFTER THE DATE OF ISSUE OF THE POLICY, THE INSURER MAY NOT VOID THE POLICY AND THE AMOUNT PAYABLE SHALL BE DETERMINED IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION.

(5) IF THE PREMIUM RATES OF THE INSURER AT THE DATE OF ISSUE OF THE POLICY DO NOT INCLUDE A RATE FOR THE CORRECT AGE, THE AMOUNT PAYABLE SHALL BE DETERMINED IN ACCORDANCE WITH ESTABLISHED ACTUARIAL PRINCIPLES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 48A, §§ 392 and 392A.

In subsections (a) and (b)(1) and (5) of this section, the former references to the correct "ages" are deleted in light of the references to the correct "age". Article 1, § 8 of the Code provides that the singular includes the plural.

In subsection (a) of this section, the term "individual" is substituted for the former reference to a "person" because only an individual can be an insured under a life insurance policy.

Defined terms: "Insurer" § 1-101

"Life insurance" § 1-101

"Policy" § 1-101

"Premium" § 1-101