

# Advanced Markets Because You Asked

January 2006

## Creditor Protection and Life Insurance

In addition to the income tax benefits of life insurance, life insurance also receives creditor protection under state laws and the federal bankruptcy code.

**Federal Bankruptcy Code:** For policyholders who file for protection under the federal bankruptcy laws, the federal bankruptcy code protects the actual insurance element of unexpired life insurance policies owned by a debtor and up to a specified amount (\$8,000 in 2006) of the debtor's aggregate interest in any accrued dividend, interest or loan value of an unexpired life insurance policy, provided that the insured is either the debtor, the debtor's spouse, or an individual of whom the debtor is a dependent. The federal Bankruptcy Code provides that debtors in bankruptcy may choose between the federal exemptions provided in the Bankruptcy Code and the available state law exemptions for bankruptcy (plus exemptions provided by federal law other than the Bankruptcy Code, such as ERISA). However, some states do not allow the federal bankruptcy exemptions, in which case only the state law exemptions would be available in bankruptcy. The Bankruptcy Act passed in 2005 makes no changes to the state law exemptions for life insurance.

**State Law:** Many states provide more extensive exemptions of life insurance than federal law. In addition to the bankruptcy exemptions, many states provide protection for the cash value and death benefit of life insurance in a non-bankruptcy context. However, in most cases, state law exempts only the beneficiary(ies) of the life insurance contract from claims by the creditors of the owner or insured of the contract in a nonbankruptcy situation. In some states, the exemption of life insurance only covers the family members of the insured. A few states, such as Alaska, Florida, Texas, Idaho, Missouri, New Mexico, Oklahoma, South Dakota, and Texas, provide an exemption from creditors' claims for the insured/owner of the contract, in addition to the beneficiary of the contract. For additional creditor protection, a trust, partnership or limited liability company (LLC) may be an appropriate vehicle to own a life insurance contract.

The summary below reviews the provisions of every state for exemption of life insurance from attachment by creditors, beginning with the non-bankruptcy context and then the exemptions available in bankruptcy under federal and state law. These statutes are subject to change, and the listing below is current through the end of 2005. For your reference, the citations for the relevant provisions have also been included.

### Alabama

#### NON-BANKRUPTCY CONTEXT

**Death Benefit:** Proceeds are exempt for the beneficiary from the creditors of the owner and the insured, except if the premiums are paid with the intent to defraud creditors. CA §§27-14-29(a) and 6-10-8.

**Cash Value:** Same exemptions allowed as for the death benefit. CA §27-14-29(c).

#### BANKRUPTCY CONTEXT

**Federal Exemptions:** Federal bankruptcy exemptions are not available.

**State Exemptions:** Same exemptions as in the non-bankruptcy context. Ala. Code §6-10-11.

### Alaska

#### NON-BANKRUPTCY CONTEXT

**Death Benefit:** Life insurance death benefit is considered "earnings, income, cash, or other liquid assets" and is exempt from creditors' claims for owners, insureds and beneficiaries of the life insurance contract up to a limited amount (\$1750 in 2005). The exemption amount is indexed annually. AS §§09.38.115, 09.38.030(b)

**Cash Value:** An individual may exempt unmatured life insurance contracts owned by the individual (exemption for the owner), but loan values and accumulated dividends on the unmatured life insurance are exempt only up to a limited amount. (\$12,500 in 2005). AS §09.38.025(a); 8 AAC 95.030. The dollar amounts are indexed and can change. AS §809.38.115.

#### **BANKRUPTCY CONTEXT**

**Federal Exemptions:** The use of the federal bankruptcy exemptions is allowed, however AS law apparently limits the exemptions available in bankruptcy to certain state law exemptions.

**State Exemptions:** All exemptions from non-bankruptcy context are available in bankruptcy. AS §09.38.055.

### **Arizona**

#### **NON-BANKRUPTCY CONTEXT**

**Death Benefit:** Proceeds are exempt for the beneficiary from the insured's and owner's creditors, except if the premiums are paid with the intent to defraud creditors. ARS §20-1131(A), §33-1126.

**Cash Value:** Cash surrender value is exempt in the case of a debtor who has owned a policy for over two years and a family dependent has been named as the beneficiary. Premium amounts recoverable or avoidable by a creditor under Title 44, Ch.8, art. 1 shall inure to their benefit from the cash value. ARS §20-1131(D)

#### **BANKRUPTCY CONTEXT**

**Federal Exemptions:** Federal bankruptcy exemptions are not available. ARS §33-1133(B)

**State Exemptions:** Same exemptions as the non-bankruptcy context. ARS §33-1133.

### **Arkansas**

#### **NON-BANKRUPTCY CONTEXT**

**Death Benefit:** Proceeds are exempt for a beneficiary from the creditors of the insured or the owner, if the life insurance is payable to beneficiaries or assignees other than the insured or owner (except cases with intent to defraud creditors). ACA §23-79-131(a)(1).

**Cash Value:** Same exemptions as the death benefit. ACA §16-66-209.

#### **BANKRUPTCY CONTEXT**

**Federal Exemptions:** The federal exemptions are available. ACA §16-66-217. However, these exemptions may be capped by the Arkansas Constitution Article 9, Section 1 and 2, which states that one person may exempt up to \$200 or a head of a household may exempt up to \$500 worth of such property.

**State Exemptions:** Same exemptions as the non-bankruptcy context. ACA §16-66-218(b).

### **California**

#### **NON-BANKRUPTCY CONTEXT**

**Death Benefit:** Proceeds of a matured life insurance policy are exempt for the beneficiary and the insured to the extent necessary for the support of the judgment debtor, and spouse and dependents of the debtor. Cal. Code of Civ. Proc. §704.100(c).

**Cash Value:** Cash value is exempt for the insured and beneficiaries to the extent of \$9,700 per person of aggregate loan value from the enforcement of a money judgment. Cal. Code of Civ. Proc. §704.100(a) and 704.100(b).

#### **BANKRUPTCY CONTEXT**

**Federal Exemptions:** No federal bankruptcy exemptions. Cal. Code of Civ. Proc. §703.130.

**State Exemptions:** One of two alternatives can be chosen as described below.

**Alternative A:** (consists of exemptions available in non-bankruptcy context.) Cash value is exempt; a creditor cannot force a debtor to surrender such a policy for its cash value. Only \$9,700 of aggregate loan value is exempt. Cal. Code of Civ. Proc. §704.100. Proceeds are exempt to the extent reasonably necessary for support of judgment debtor, spouse and dependents. Cal. Code of Civ. Proc. §704.100(c).

**Alternative B:** (Group of state law exemptions only available in bankruptcy.) Any unmatured life insurance contracts owned by debtor may be exempted. Debtor may protect up to \$9,300 of his aggregate interest in any accrued dividend or interest under, or loan value of, any unmatured life insurance contract owned by the debtor under whom the insured is the debtor or an individual whom the debtor is an independent. Cal. Code of Civ. Proc. §703.140(b)(8)

and Cal. Code of Civ. Proc. 703.140(b)(7). The debtor may protect to the extent reasonably necessary for the support of the debtor and any dependent, his right to receive, or any property traceable to, a payment under a life insurance contract that insured the life of an individual of whom the debtor was a dependent on the date the insured died. Cal. Code of Civ. Proc. §703.140(b)(11)(C).

## Colorado

### NON-BANKRUPTCY CONTEXT

**Death Benefit:** Proceeds are generally exempt for the beneficiary from the creditors of the owner or insured without limitation. CRS §§13-54-102(1)(I)(B), 13-54-106. The first exception is if the proceeds are used to pay off the beneficiary's debt. CRS §§13-54-102(1)(I)(II). The second exception is if the beneficiary is the estate of the insured. CRS §§13-54-102(1)(I)(III).

**Cash Value:** \$50,000 of the cash surrender value of policies is generally exempt for any party from claims by the insured's creditors. One exception is that the exemption does not apply to increases in money contributed to the policy during the 48 months prior to the issuance of a writ of seizure. CRS §§13-54-102(1)(I)(A), 13-54-106.

### BANKRUPTCY CONTEXT

**Federal Exemptions:** Federal bankruptcy exemptions are not available. CRS §13-54-107.

**State Exemptions:** Same exemptions as for the non-bankruptcy context. CRS §1354107.

## Connecticut

### NON-BANKRUPTCY CONTEXT

**Death Benefit:** Proceeds are exempt for the beneficiary from the creditors of the insured, except if the premiums are paid with the intent to defraud creditors. CGSA §38a-453.

**Cash Value:** Same exemptions as the death benefit.

### BANKRUPTCY CONTEXT

**Federal Exemptions:** Federal bankruptcy exemptions are available.

**State Exemptions:** Same exemptions as in the non-bankruptcy context. CGSA §38a-453.

## Delaware

### NON-BANKRUPTCY CONTEXT

**Death Benefit:** Proceeds are exempt for the beneficiary from the owner's or insured's creditors if the beneficiary is not the insured, the insured's estate, or the insured's creditors, except if the premiums are paid with the intent to defraud creditors. Del. Code Ann. Tit. 18, §2725.

**Cash Value:** Same exemptions as the death benefit.

### BANKRUPTCY CONTEXT

**Federal Exemptions:** Federal bankruptcy exemptions are not available. Del. Code Ann. Tit. 10, §4914.

**State Exemptions:** Same exemptions as are available in the non-bankruptcy context.

## District of Columbia

### NON-BANKRUPTCY CONTEXT

**Death Benefit:** Proceeds are exempt for the beneficiary from claims of the creditors of the owner or insured, except if the premiums are paid with the intent to defraud creditors. DCA §31-4716.

**Cash Value:** Same exemptions as the death benefit. DCA §31-4716.

### BANKRUPTCY CONTEXT

**Federal Exemptions:** Federal exemptions are available. DCA §31-4716.

**State Exemptions:** Same exemptions as are available in the non-bankruptcy context. DCA §31-4719. Debtor can exempt cash value and proceeds of life insurance if debtor was dependent of insured and proceeds are reasonably necessary for support. DCA §15-501.

## Florida

### NON-BANKRUPTCY CONTEXT

**Death Benefit:** Proceeds are exempt for any party (owner, insured or beneficiary) if payable to a named beneficiary. Proceeds are not exempt if payable to the insured, insured's estate, executors, administrators, or assigns. FSA §222.13(1).

**Cash Value:** Cash surrender value is exempt for any party from claims of any creditor, unless the policy was funded with the intent to defraud creditors. FSA §222.14.

### BANKRUPTCY CONTEXT

**Federal Exemptions:** Federal bankruptcy exemptions are not available. FSA §222.20.

**State Exemptions:** Same exemptions as in the non-bankruptcy context. FSA §222.201(1).

## Georgia

### NON-BANKRUPTCY CONTEXT

**Death Benefit:** Proceeds are exempt for the beneficiary from the creditors of the owner is insured if payable to a named beneficiary. Proceeds are not exempt if payable to insured, insured estate, executors, administrators, or assigns or if premiums are paid with the intent to defraud creditors. CGA §§33-25-11, 33-27-7.

**Cash Value:** Same exemptions as the death benefit.

### BANKRUPTCY CONTEXT

**Federal Exemptions:** Federal bankruptcy exemptions are not available. CGA §44-13-100(b).

**State Exemptions:** Same exemptions as in the non-bankruptcy context. CGA §44-13-100(a)(8) and (a)(11)(c).

## Hawaii

### NON-BANKRUPTCY CONTEXT

**Death Benefit:** Proceeds are exempt for the beneficiary from the creditors of the owner or insured or beneficiary if payable to the spouse, children, parents, or dependents of the insured. HRS §431:10-232(a).

**Cash Value:** Same exemptions as the death benefit.

### BANKRUPTCY CONTEXT

**Federal Exemptions:** Federal bankruptcy exemptions are available.

**State Exemptions:** Same exemptions as in the non-bankruptcy context. HRS §651-121.

## Idaho

### NON-BANKRUPTCY CONTEXT

**Death Benefit:** Proceeds are exempt for the beneficiary from the creditors of the owner, insured or beneficiary if the life insurance is payable to a beneficiary or assignee other than the insured or owner. Premiums paid with the intent to defraud creditors are subject to claims. IC §41-1833.

**Cash Value:** Same exemptions as the death benefit.

### BANKRUPTCY CONTEXT

**Federal Exemptions:** Federal bankruptcy exemptions are not available. IC §11-609.

**State Exemptions:** Same exemptions as in the non-bankruptcy context. IC §11-609.

## Illinois

### NON-BANKRUPTCY CONTEXT

**Death Benefit:** Proceeds are exempt for the beneficiary from the creditors of the owner or insured when the spouse, children, dependent parent or other dependents of the insured are the beneficiaries. This is true whether the power to change beneficiaries is reserved, or the insured or his estate is a contingent beneficiary. 735 ILCS § 5/12-1001.

**Cash Value:** Same exemptions as the death benefit.

### BANKRUPTCY CONTEXT

**Federal Exemptions:** Federal bankruptcy exemptions are not available. 735 ILCS § 5/12-1201.

**State Exemptions:** Same exemptions as in non-bankruptcy context. 735 ILCS § 5/12-1201.

## Indiana

### NON-BANKRUPTCY CONTEXT

**Death Benefit:** Proceeds are exempt for the beneficiary from the creditors of the owner or insured when the spouse, children, or other dependents are the beneficiaries, as long as premiums are not paid with the intent to defraud creditors. IC §27-1-12-14.

**Cash Value:** Same exemptions as the death benefit.

### BANKRUPTCY CONTEXT

**Federal Exemptions:** Federal bankruptcy exemptions are not available. IC §34-55-10-1.

**State Exemptions:** Same exemptions as in non-bankruptcy context. IC §34-55-10-1.

## Iowa

### NON-BANKRUPTCY CONTEXT

**Death Benefit:** Exempt for the beneficiary from the creditors of the owner or insured if payable to spouse, children or other dependents of the insured, limited to \$10,000 aggregate in policies acquired within 2 years of judgment or claim. The beneficiary may also exempt \$15,000 of the death benefit from claims of his/her creditors. ICA §627.6(6).

**Cash Value:** Exempt for the beneficiary if payable to spouse, children or other dependents of the insured. The amount of the exemption cannot exceed \$10,000 if the policy was acquired within two years of the date when exemptions are claimed or filing for bankruptcy. ICA §627.6(6).

### BANKRUPTCY CONTEXT

**Federal Exemptions:** The federal bankruptcy exemptions are not available. ICA §627.10.

**State Exemptions:** Same exemptions as in the non-bankruptcy context. ICA §627.10.

## Kansas

### NON-BANKRUPTCY CONTEXT

**Death Benefit:** Proceeds are exempt for beneficiaries from creditors of the owner or insured or the beneficiary, unless bankruptcy is filed within a year of the policy being issued or if a judgment for the claim is issued within a year. KSA §40-414; also see KSA §60-2313(a)(7).

**Cash Value:** Same exemptions as for the death benefit.

### BANKRUPTCY CONTEXT

**Federal Exemptions:** Federal bankruptcy exemptions are not available. KSA §60-2312.

**State Exemptions:** Same exemptions as in the non-bankruptcy context. KSA §60-2312.

## Kentucky

### NON-BANKRUPTCY CONTEXT

**Death Benefit:** Proceeds that are payable to a beneficiary, other than the insured or owner (person affecting the insurance) are exempt, even if the right to change beneficiaries is reserved or the proceeds are payable if the beneficiary predeceases the insured. The exemption protects the beneficiary from the creditors of the owner or insured. KRS §304.14-300.

**Cash Value:** Same provisions as for the death benefit.

### BANKRUPTCY CONTEXT

**Federal Exemptions:** Federal bankruptcy exemptions are not available. KRS §427.170.

**State Exemptions:** Same exemptions as for non-bankruptcy context. KRS §427.150.

## Louisiana

### NON-BANKRUPTCY CONTEXT

**Death Benefit:** Proceeds that are payable to a beneficiary, other than the insured or person funding the insurance are exempt, even if the right to change beneficiaries is reserved or the proceeds are payable if the beneficiary predeceases the insured. The exemption protects the beneficiary from the creditors of the owner or insured but does not apply to debts secured by pledge or assignment of the policy. LSA-R.S. §22:647.

**Cash Value:** Cash value exemptions are subject to the same provisions as death benefit. However, only up to \$35,000 is exempt if a creditor claim against the policy comes within nine months of the policy being issued. LSA-R.S. §22:647(A)(1) and LSA-R.S. §22:647(A)(2).

#### **BANKRUPTCY CONTEXT**

**Federal Exemptions:** Federal bankruptcy exemptions are not available. LSA-R.S. §13:3881(B)(1).

**State Exemptions:** Same exemptions as in the non-bankruptcy context. LRS-R.S. 22:647(A).

## **Maine**

#### **NON-BANKRUPTCY CONTEXT**

**Death Benefit:** Proceeds are exempt for the beneficiary from the creditors of the owner or insured, except if the premiums are paid with the intent to defraud creditors. 24-A MRSA §2428.

**Cash Value:** Same exemptions as for the death benefit.

#### **BANKRUPTCY CONTEXT**

**Federal Exemptions:** Only the federal bankruptcy exemptions in United States Code, Title 11, Section 522(b)(2)(A) and (B) are available. 14 MRSA §4426.

**State Exemptions:** Same exemptions as in non-bankruptcy context. 14 MRSA §4426.

## **Maryland**

#### **NON-BANKRUPTCY CONTEXT**

**Death Benefit:** Proceeds are exempt for the beneficiaries from execution on a judgment and from the owner's and insured's debts if the policy names a spouse, child, or dependent beneficiary. ACM, INS, §16-111; ACM, ET, §8-115. ACM, CJP, §11-504(b)(2).

**Cash Value:** Cash value exemptions are the same as for the death benefit.

#### **BANKRUPTCY CONTEXT**

**Federal Exemptions:** Federal bankruptcy exemptions are not available. ACM, CJP, §11-504(g).

**State Exemptions:** Same exemptions as in non-bankruptcy context. ACM, CJP, §11-504(g).

## **Massachusetts**

#### **NON-BANKRUPTCY CONTEXT**

**Death Benefit:** Proceeds are exempt for the beneficiary from the creditors of the owner or insured if the policy is payable to a beneficiary other than the policy owner. Premiums paid with the intent to defraud creditors are subject to creditors claims. ALM Ch.175, §125.

**Cash Value:** Cash value exemptions are the same as for the death benefit.

#### **BANKRUPTCY CONTEXT**

**Federal Exemptions:** Federal bankruptcy exemptions are available.

**State Exemptions:** Same exemptions as are available in the non-bankruptcy context.

## **Michigan**

#### **NON-BANKRUPTCY CONTEXT**

**Death Benefit:** Proceeds that are payable to a beneficiary, other than the insured or owner are exempt, even if the right to change beneficiaries is reserved or the proceeds are payable if the beneficiary predeceases the insured. The exemption protects the beneficiary from the creditors of the owner or insured. Premiums paid with the intent to defraud are subject to their claims outside of the proceeds. MCLA §500.2207(2).

**Cash Value:** Cash value exemptions are the same as for the death benefit.

#### **BANKRUPTCY CONTEXT**

**Federal Exemptions:** Federal bankruptcy exemptions are available. MCLA §600.6023.

**State Exemptions:** Same exemptions as the non-bankruptcy context. MCLA §600.6023.

## Minnesota

### NON-BANKRUPTCY CONTEXT

**Death Benefit:** Proceeds are exempt for the beneficiary from the creditors of the owner or insured, except if the premiums are paid with the intent to defraud creditors. MSA §61A.12.

**Cash Value:** Same exemptions as for the death benefit.

### BANKRUPTCY CONTEXT

**Federal Exemptions:** Federal bankruptcy exemptions are available. MSA §550.371.

**State Exemptions:** Same exemptions as in the non-bankruptcy context. MSA §550.371.

## Mississippi

### NON-BANKRUPTCY CONTEXT

**Death Benefit:** Proceeds are exempt for the beneficiary from the creditors of the owner or insured, except premiums paid by anyone other than the insured. MCA §85-3-11(1).

**Cash Value:** Cash value has the same exemption as the death benefit except that cash value over \$50,000 as a result of premiums paid or other payments made within twelve months of filing bankruptcy or issuance of a writ of seizure is not exempt. MCA ((85-3-11(1), 85-3-11(2)(a)).

### BANKRUPTCY CONTEXT

**Federal Exemptions:** Federal bankruptcy exemptions are not available. MCA §85-3-2.

**State Exemptions:** Same exemptions as in the non-bankruptcy context. MCA §85-3-2.

## Missouri

### NON-BANKRUPTCY CONTEXT

**Death Benefit:** Proceeds from life insurance are generally exempt for the insured or a beneficiary who is a dependent of the insured from creditors of the owner, insured or a beneficiary. VAMS §§377.330,376.550.

**Cash Value:** Same exemptions as for the death benefit. VAMS §377.330.

### BANKRUPTCY CONTEXT

**Federal Exemptions:** Federal bankruptcy exemptions are not available. VAMS §513.427.

**State Exemptions:** All exemptions that are true in non-bankruptcy context are true in bankruptcy, except for cash value. The exempt cash value may not exceed \$150,000 less any amount applied in payment of premiums or to carry out a non-forfeiture option under any agreement entered into before commencement of bankruptcy proceeding. Also, no exemption occurs if policy is entered into within one year of commencement of the bankruptcy proceedings. VAMS §513.430(8).

## Montana

### NON-BANKRUPTCY CONTEXT

**Death Benefit:** Proceeds are exempt for the beneficiary against the creditors of the owner or insured if the policy is payable to someone other than the insured. Premiums paid with the intent to defraud creditors are subject to claims outside of proceeds. MCA §33-15-511.

**Cash Value:** Cash value exemptions are the same as for the death benefit.

### BANKRUPTCY CONTEXT

**Federal Exemptions:** Federal bankruptcy exemptions are not available. MCA §31-2-106.

**State Exemptions:** Bankruptcy exemptions may not exceed \$4,000 in value, in any unmaturing life insurance contract. MCA §§31-2-106(1), 25-13-609(4).

## Nebraska

### NON-BANKRUPTCY CONTEXT

**Death Benefit:** Proceeds are exempt for the beneficiary from the creditors of the owner or insured or beneficiary if payable to a beneficiary other than the insured's estate. RSN §44-371.

**Cash Value:** Cash value is exempt for up to \$100,000 from all creditors claims.

## **BANKRUPTCY CONTEXT**

**Federal Exemptions:** Federal bankruptcy exemptions are not available. RSN §25-15,105.

**State Exemptions:** Same exemptions as in non-bankruptcy context, except any cash value in policies initiated or increased through contributions within 3 years of bankruptcy (to the extent of the increase). RSN §25-15,105.

## **Nevada**

### **NON-BANKRUPTCY CONTEXT**

**Death Benefit:** Proceeds are exempt for the beneficiary from the creditors of the owner or insured if the life insurance is payable to a beneficiary other than the insured and if premiums are not paid with the intent to defraud. NRS §687B.260.

**Cash Value:** Cash value exemptions are the same as for the death benefit.

### **BANKRUPTCY CONTEXT**

**Federal Exemptions:** Federal bankruptcy exemptions are not available. NRS §21.090(3).

**State Exemptions:** Same exemptions as in non-bankruptcy context. NRS §21.090.

## **New Hampshire**

### **NON-BANKRUPTCY CONTEXT**

**Death Benefit:** Proceeds are exempt for a person other than the insured having an insurable interest in the insured, from creditors of the owner or insured, if premiums are not paid with the intent to defraud creditors. NHRSA §408:2.

**Cash Value:** Cash value exemptions are subject to the same provisions as for death benefit.

### **BANKRUPTCY CONTEXT**

**Federal Exemptions:** Federal bankruptcy exemptions are available.

**State Exemptions:** Same exemptions as in non-bankruptcy context. NHRSA §511:2.

## **New Jersey**

### **NON-BANKRUPTCY CONTEXT**

**Death Benefit:** Proceeds are exempt for the beneficiary from the creditors of the owner or insured if the life insurance is payable to a beneficiary other than the insured and if premiums are not paid with the intent to defraud. NJSA §§17B: 24-6(b).

**Cash Value:** Cash value exemptions are the same as for the death benefit.

### **BANKRUPTCY CONTEXT**

**Federal Exemptions:** Federal bankruptcy exemptions are available.

**State Exemptions:** Same exemptions as are available in the non-bankruptcy context.

## **New Mexico**

### **NON-BANKRUPTCY CONTEXT**

**Death Benefit:** Proceeds are exempt for the insured and the beneficiary from all creditors and debtors unless there is a written contract subjecting the proceeds to debts. NMSA §§42-10-5, 42-10-6.

**Cash Value:** Same exemptions as for the death benefit. NMSA §§42-10-3, 42-10-6.

### **BANKRUPTCY CONTEXT**

**Federal Exemptions:** Federal bankruptcy exemptions are available.

**State Exemptions:** Same exemptions as are available in the non-bankruptcy context.

## **New York**

### **NON-BANKRUPTCY CONTEXT**

**Death Benefit:** Proceeds are exempt for a named beneficiary (other than the owner or insured) from the creditors of the owner or insured. If a policy owner has insurance on the life of his/her spouse, the policy will be exempt from the creditors of the owner. CLNY, Insurance Law, §3212.

**Cash Value:** Cash value exemptions are the same as for the death benefit.



## **BANKRUPTCY CONTEXT**

**Federal Exemptions:** Federal bankruptcy exemptions are not available. CLNY, Debtor & Creditor Law, §284.

**State Exemptions:** Death proceeds and cash value are exempt. CLNY, Debtor & Creditor Law, §284.

## **North Carolina**

### **NON-BANKRUPTCY CONTEXT**

**Death Benefit:** Proceeds are subject to exemption for the beneficiary from the creditors of the owner or insured if the policy is payable to a beneficiary other than the insured. GSNC §§58-58-95, 58-58-115. See also §1C-1601.

**Cash Value:** Cash value exemptions are the same as for the death benefit.

### **BANKRUPTCY CONTEXT**

**Federal Exemptions:** Federal bankruptcy exemptions are not available. GSNC §1C-1601(f).

**State Exemptions:** Same exemptions as in the non-bankruptcy context.

## **North Dakota**

### **NON-BANKRUPTCY CONTEXT**

**Death Benefit:** Proceeds payable to the deceased, the deceased's representative, the deceased's representative, the deceased's heirs, or the deceased's estate are exempt from creditors of the insured or owner. NDCC §26.1-33-40.

**Cash Value:** Cash value payable to the spouse, children, or any relative of the insured dependent, or likely to be dependent, upon the insured for support, is exempt absolutely from the claims of creditors. NDCC §26.1-33-36.

### **BANKRUPTCY CONTEXT**

**Federal Exemptions:** Federal bankruptcy exemptions are not available. NDCC §28-22-17.

**State Exemptions:** Death benefit and cash value are exempt up to a limit of \$100,000 if the policy is payable to spouse, children, or dependent, and if policy has been in effect more than a year. Death benefit and cash value are not exempt from domestic relations orders. NDCC §28-22-03.1(3).

## **Ohio**

### **NON-BANKRUPTCY CONTEXT**

**Death Benefit:** Proceeds of life insurance that are payable to spouse, children, dependent relative, charity, creditor of insured or a trust for benefit of the above are exempt from claims of the creditors of the owner or insured. ORC §§3911.10, 2329.66(A)(6)(b).

**Cash Value:** Cash value exemptions are the same as for the death benefit.

### **BANKRUPTCY CONTEXT**

**Federal Exemptions:** Federal bankruptcy exemptions are not available. ORC §2329.662.

**State Exemptions:** Same exemptions as are available in the non-bankruptcy context. ORC §2329.662.

## **Oklahoma**

### **NON-BANKRUPTCY CONTEXT**

**Death Benefit:** Proceeds are exempt for the insured or beneficiary from all creditors. 36 OSA §3631.1(A).

**Cash Value:** Cash value exemptions are the same as for the death benefit.

### **BANKRUPTCY CONTEXT**

**Federal Exemptions:** Federal bankruptcy exemptions are not available. 31 OSA §1(B).

**State Exemptions:** Death benefit and cash value receive full exemption. 31 OSA §1.

## **Oregon**

### **NON-BANKRUPTCY CONTEXT**

**Death Benefit:** Proceeds are exempt for the beneficiary from the creditors of the owner or insured if the policy beneficiary is a person other than the insured. ORS §743.046.

**Cash Value:** Same exemption as for the death benefit. ORS §743.046.

## **BANKRUPTCY CONTEXT**

**Federal Exemptions:** Federal bankruptcy exemptions are not available. ORS §18.300 (renumbered).

**State Exemptions:** Same exemptions as are available in the non-bankruptcy context. ORS §18.300.

## **Pennsylvania**

### **NON-BANKRUPTCY CONTEXT**

**Death Benefit:** Proceeds are exempt for the beneficiary from the creditors of the owner or insured if the spouse, children, or dependent of the insured are the beneficiaries. 42 Pa. CSA §8124(c)(4), (6).

**Cash Value:** Same exemptions as for the death benefit.

### **BANKRUPTCY CONTEXT**

**Federal Exemptions:** Federal bankruptcy exemptions are available.

**State Exemptions:** Same exemptions as are available in the non-bankruptcy context.

## **Rhode Island**

### **NON-BANKRUPTCY CONTEXT**

**Death Benefit:** Proceeds are exempt for the beneficiary from creditors of the owner or insured if payable to someone other than the insured. But premiums paid with the intent to defraud creditors are subject to creditor's claims. GLRI §27-4-11, §27-4-12.

**Cash Value:** Same exemptions as for the death benefit.

### **BANKRUPTCY CONTEXT**

**Federal Exemptions:** Federal bankruptcy exemptions are available.

**State Exemptions:** Same exemptions as are available in the non-bankruptcy context.

## **South Carolina**

### **NON-BANKRUPTCY CONTEXT**

**Death Benefit:** Proceeds are exempt from creditors of the insured if the spouse, children, or other dependent of the insured is the beneficiary of the policy. This is only true if the policy was not obtained with the intent to defraud creditors or if a valid assignment of cash value was not made. SCST §38-63-40.

**Cash Value:** \$4,000 is exempt from creditors claims. SCST §15-40-30.

### **BANKRUPTCY CONTEXT**

**Federal Exemptions:** Federal bankruptcy exemptions are not available. SCST §15-41-35.

**State Exemptions:** Same exemptions as are available in the non-bankruptcy context. SCST §15-41-35.

## **South Dakota**

### **NON-BANKRUPTCY CONTEXT**

**Death Benefit:** Proceeds, if payable to the insured, spouse, children, or dependent of the insured, are exempt from all creditors up to the limit of \$20,000. SDCL §58-12-4. The exemption is not available where the debtor by written agreement, has assigned all of his interest as a security for a loan.

**Cash Value:** Same exemptions as for the death benefit.

### **BANKRUPTCY CONTEXT**

**Federal Exemptions:** Federal bankruptcy exemptions are not available. SDCL §43-31-30.

**State Exemptions:** Same exemptions as available in the non-bankruptcy context. SDCL §43-31-30.

## **Tennessee**

### **NON-BANKRUPTCY CONTEXT**

**Death Benefit:** Proceeds are exempt for the beneficiary from creditors of the insured or owner if they are proceeds of insurance funded by a person on his own life or if payable to a spouse, children, or another dependent relative of the insured. If proceeds are payable to insured's estate, the proceeds pass according to the dispositive provisions of the insured's will and are not subject to debts of insured. TCA §§56-7-201, §56-7-202, and §56-7-203.

**Cash Value:** Same exemptions as for the death benefit.

#### **BANKRUPTCY CONTEXT**

**Federal Exemptions:** Federal bankruptcy exemptions are not available. TCA §26-2-112.

**State Exemptions:** Same exemptions as are available in the non-bankruptcy context. TCA §26-2-112.

### **Texas**

#### **NON-BANKRUPTCY CONTEXT**

**Death Benefit:** Proceeds are exempt for the beneficiary and the insured from the creditors of the insured, except if the premiums are paid with the intent to defraud creditors or if the insured or beneficiary pledged policy as security for debt. VATS Ins. Code. §§1108.051, 1108.052, 1108.053

**Cash Value:** Same exemptions allowed as for the death benefit.

#### **BANKRUPTCY CONTEXT**

**Federal Exemptions:** Federal bankruptcy exemptions are available.

**State Exemptions:** Same exemptions as available in the non-bankruptcy context.

### **Utah**

#### **NON-BANKRUPTCY CONTEXT**

**Death Benefit:** Proceeds are exempt for the beneficiary from the creditors of the owner or insured if the policy beneficiary is the spouse or a dependent of the insured, as long as contract was owned by the debtor for over 1 year.

**Cash Value:** Cash values are exempt (except for payments made within one year of levy by creditor). UCA §78-23-5.

#### **BANKRUPTCY CONTEXT**

**Federal Exemptions:** Federal bankruptcy exemptions are not available. UCA §78-23-15.

**State Exemptions:** Same exemptions as in the non-bankruptcy context. UCA §78-23-15.

### **Vermont**

#### **NON-BANKRUPTCY CONTEXT**

**Death Benefit:** Proceeds are exempt for the beneficiary from the creditors of the owner or insured if payable to a beneficiary other than the debtor and not with the intent to defraud creditors. Vt. Stat. Ann. Tit. 8, § 3706.

**Cash Value:** Same exemptions allowed as for the death benefit.

#### **BANKRUPTCY CONTEXT**

**Federal Exemptions:** Federal bankruptcy exemptions are available.

**State Exemptions:** Same exemptions as are available in the non-bankruptcy context.

### **Virginia**

#### **NON-BANKRUPTCY CONTEXT**

**Death Benefit:** Proceeds of life insurance are exempt for the beneficiary from creditors of the owner or insured if payable to someone other than the insured. If premiums are paid with the intent to defraud or if the right to change beneficiary is reserved, the proceeds are subject to creditors claims. VC §38.2-3122.

**Cash Value:** Same exemptions as for the death benefit. VC §38.2-3122, §38.2-3123.

#### **BANKRUPTCY CONTEXT**

**Federal Exemptions:** Federal bankruptcy exemptions are not available. VC §34-3.1.

**State Exemptions:** Same exemptions as in the non-bankruptcy context. VC §34-3.1.

### **Washington**

#### **NON-BANKRUPTCY CONTEXT**

**Death Benefit:** Proceeds of life insurance are exempt for the beneficiary from creditors and debts of the insured or owner if payable to someone other than the insured. If premiums are paid with the intent to defraud, they are subject to creditor's claims. RCW §48.18.410.

**Cash Value:** Same exemptions as for the death benefit. RCW §48.18.410.

## BANKRUPTCY CONTEXT

**Federal Exemptions:** Federal bankruptcy exemptions are available. RCW §48.23.300.

**State Exemptions:** Same exemptions as are available in the non-bankruptcy context. RCW §48.23.300.

## West Virginia

### NON-BANKRUPTCY CONTEXT

**Death Benefit:** Proceeds of life insurance are exempt for beneficiaries from creditors of the owner or insured if payable to someone other than the insured. If premiums are paid with the intent to defraud creditors, the proceeds are subject to creditors' claims. WVC §33-6-27.

**Cash Value:** Same exemptions as for the death benefit. WVC §33-6-27.

### BANKRUPTCY CONTEXT

**Federal Exemptions:** Federal bankruptcy exemptions are not available. WVC §38-10-4.

**State Exemptions:** Debtor may exempt from the bankruptcy estate any unexpired life insurance contract owned by debtor, other than a credit life insurance contract. WVC §38-10-4(g).

## Wisconsin

### NON-BANKRUPTCY CONTEXT

**Death Benefit:** Proceeds of life insurance payable to a beneficiary who is a dependent of the insured are exempt up to the amount necessary to support the debtor and his or her dependents (from claims of creditors of the insured or beneficiary). WSA §815.18(3)(i).

**Cash Value:** Cash value of a policy on the life of the debtor, a dependent of the debtor, or a person for whom the debtor is a dependent, is exempt up to \$150,000 from all creditors claims, but if policy was issued less than 24 months before cause of action or petition, then exempt only up to \$4,000. WSA §815.18(3)(f).

### BANKRUPTCY CONTEXT

**Federal Exemptions:** Federal bankruptcy exemptions are available.

**State Exemptions:** Same exemptions as in the non-bankruptcy context.

## Wyoming

### NON-BANKRUPTCY CONTEXT

**Death Benefit:** Proceeds of life insurance are exempt for the beneficiary from creditors and debts of the owner or insured if payable to someone other than the insured. If premiums are paid with the intent to defraud creditors, the proceeds are subject to creditors' claims. WS §26-15-129.

**Cash Value:** Same exemptions as for the death benefit.

### BANKRUPTCY CONTEXT

**Federal Exemptions:** Federal bankruptcy exemptions are not available. WS §1-20-109.

**State Exemptions:** Same exemptions as are available in the non-bankruptcy context. WS §1-20-109.

This material is for informational purposes only. Although many of the topics presented may also involve tax, legal accounting or other issues, neither John Hancock nor any of its agents, employees, or registered representatives are in the business of offering such advice. The above material was not intended or written to be used, and it cannot be used, for the purpose of avoiding any penalty that may be imposed by the Internal Revenue Service. The above material may have been written to support the promotion or marketing of the transactions or topics addressed by the written material. Individuals interested in these topics should consult with their own professional advisors to examine legal, tax, accounting or financial planning aspects of these topics.

John Hancock Life Insurance Company (U.S.A.), 197 Clarendon Street, Boston, MA 02116.

©2006 John Hancock Life Insurance Company (U.S.A.) All rights reserved.

MLI0910044585