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Alabama

Federal Election:

Not allowed. [Ala. Code §6-10-11]

Life Insurance: Death Proceeds—

The proceeds of life insurance policies taken out by a person on his own life or on another's life, in favor of a person other than himself, are payable to the beneficiary free from claims of creditors of the insured or the person effecting the insurance, whether or not the right to change the beneficiary has been reserved, and whether or not the policy is payable to the insured if the beneficiary dies first. (Ala. Code § 6-10-8]

Endowment And Surrender Proceeds—

The cash surrender value of an insurance policy constitutes part of the proceeds of the policy and is exempt from claims of creditors in bankruptcy. Exempt proceeds include death benefits, cash surrender and loan values, premiums waived and dividends, whether used in reduction of premiums or otherwise, excepting only where the debtor subsequent to issuance of the policy, has actually elected to receive the dividends in cash. [Ala. Code §27-14-29(c)]

Group Insurance:

No statutory provision.

Fraternal, Etc., Insurance:

Fraternal benefits and the interest of resident beneficiaries in mutual aid association payments are exempt from execution for the claims of creditors. [Ala. Code §27-34-27]

Disability Benefits:

Louisiana

The proceeds of all contracts of disability insurance and of provisions providing benefits on account of the insured's disability that are supplemental to life insurance or annuity contracts shall be exempt from all liability for any debt of the insured and from any debt of the beneficiary existing at the time the proceeds are made available for his use. The exemption of income benefits payable as the result of disability shall not exceed an average of \$250 of such benefits per month of the period of disability.[Ala. Code §27-14-31]

Maine

Maryland

Massachusetts

Michigan

Minnesota

Annuities:

Mississippi

The benefits due under any annuity contract are not subject to execution in favor of creditors except for amounts paid as premiums on any annuity with intent to defraud creditors, with interest thereon. The total exemption under all annuity contracts in which an annuitant is entitled to receive benefits is limited to \$250 per month.[Ala. Code §27-14-32]

Missouri

Montana

Nebraska

Nevada

Spendthrift Provisions: Trusts—

New Hampshire

An express trust for the support, maintenance, and education of a relative of the grantor is not liable for and may not be seized for a debt of the beneficiary. [Ala. Code §19-3-1]

New Jersey

New Mexico

New York

Insurance Proceeds—

North Carolina

Under the terms of any annuity contract or life insurance policy, the proceeds may be retained by the insurer and not subject to assignment or alienation by the beneficiary, if permission to do so is expressly withheld by the terms of such contract or policy. If such contract or policy so provides, no payment of interest or principal shall be subject to such person's debts, contracts or engagements, nor to any judicial process to levy upon or attach the same for payment thereof. [Ala. Code § 27-14-30, 27-14-32(b)]

North Dakota

Ohio

Oklahoma

Oregon

Pennsylvania

Puerto Rico

Premiums:

Rhode Island

Premiums paid with the intent to defraud creditors will inure, together with interest, to their benefit out of the proceeds.[Ala. Code § §6-10-8, 27-14-29]

South Carolina

South Dakota

Tennessee

Alaska

Texas

Federal Election:

Utah

Not allowed.[Alaska Stat. §09.38.055]

Vermont

Virginia

Life Insurance: Death Proceeds—

Washington

Proceeds payable to a spouse or dependent of the insured are considered "earnings" and are exempt to the extent that disposable

West Virginia

Wisconsin

earnings do not exceed \$350. [Alaska Stat. §09.38.030(a) and (e)(4)]

Wyoming

Disability Benefits:

Considered “earnings” and therefore exempt to the extent that disposable earnings do not exceed \$350. [Alaska Stat. §09.38.030(a) and (e)(1)]

Annuities

Unmatured annuity and life insurance contracts are exempt from creditors’ claims up to \$10,000. [Alaska Stat. § 09.38.025]

Spendthrift Provisions: Trusts—

No statutory provision.

Insurance Proceeds—

Exempt. [Alaska Stat. §21.45.280]

Arizona

Federal Election:

Not allowed.[Ariz. Stat. §33-1133(B)]

Life Insurance: Death Proceeds—

The proceeds of policies of insurance taken out by a person on his own life or on another’s life, in favor of a person other than himself, are payable to the beneficiary free from claims of creditors of the insured. [§20-1131(A), Ariz. Rev. Stats. Ann.]

Endowment And Surrender Proceeds—

Where for a continuous period of two years, a policy of life insurance has been owned by a debtor and has named as beneficiary the owner’s surviving spouse, child, parent, brother, sister or dependent, the cash surrender value of the insurance shall be exempt from claims and demands of all creditors to the extent of \$25,000. This does not apply to cash surrender values increased by premium payments within two years in excess of the average annual premium paid during the previous three years. A separate statute provides the same protection in bankruptcy cases. [§§33-1126(A)(6) and (B); §20-1131(D), Ariz. Rev. Stats. Ann.]

Group Insurance:

Policies or proceeds payable to insured or beneficiary are not liable,

either before or after payment, for any liability of any person having a right under the policy. Proceeds, when not made payable to a named beneficiary or to a third person under a facility-of-payment clause, do not constitute a part of the estate of the insured for payment of his debts.[§20-1132, Ariz. Rev. Stats. Ann.]

Fraternal, Etc., Insurance:

Benefits are not liable to attachment, garnishment or other process to pay debts of a member or beneficiary or of any other person who may have a right thereunder, either before or after payment.[§20-877, Ariz. Rev. Stats. Ann.]

Disability Benefits:

Exempt.[§33-1126(A)(4), Ariz. Rev. Stats. Ann.]

Annuities:

Not exempt. [§33-1126(B), Ariz. Rev. Stats. Ann.]

Spendthrift Provisions: Trusts—

Subject to certain exemptions, restraints on the voluntary or involuntary transfer of a beneficiary's interest in trust income or principal exempt the beneficiary's interest in income and principal from enforcement of money judgments until the interest is paid or becomes due and payable.[§14-7701(A), Ariz. Rev. Stats. Ann.]

Insurance Proceeds—

A statute protects \$20,000 of proceeds of life insurance upon a deceased spouse, parent or guardian payable to a surviving spouse or child.[§33-1126(A)(1), Ariz. Rev. Stats. Ann.]

Premiums:

Premiums paid with the intent of defraud creditors will inure, together with interest, to their benefit out of the proceeds.[§20-1131, Ariz. Rev. Stats. Ann.]

Arkansas

Federal Election:

Allowed. [Ark. Stat. §16-66-217]

Life Insurance: Death Proceeds—

The proceeds of life insurance policies taken out by a person on his

own life or on another's life, in favor of a person other than himself, are payable to the beneficiary free from claims of creditors of the insured or the person effecting the insurance, whether or not the right to change the beneficiary has been reserved, and whether or not the policy is payable to the insured if the beneficiary dies first. [§23-79-131, Ark. Stats. Ann.]

Note that in re Hudspeth, 92 Bankr. 827 (W.D. Ark. 1988) found the exemption of policies payable to oneself in §16-66-209, Ark. Stats. Ann. to be unconstitutional because it conflicted with the \$500 limit on personal property exemptions in Ark. Const. Article 9 §2.

Endowment And Surrender Proceeds—

See "Life Insurance" above.

Group Insurance:

No statutory provision.

Fraternal, Etc., Insurance:

Benefits paid by fraternal benefit societies are exempt from debts of the member or beneficiary or any other person having a right under the policy, either before or after payment.[§23-74-403 Ark. Stats. Ann.]

Disability Benefits:

Proceeds of accident and health insurance, and benefits payable on account of the insured's disability which are supplemental to life insurance or annuity contracts, are exempt from the debts of the insured, and from any debts of his beneficiary when such benefits are made available for her use.[§23-79-133, Ark. Stats. Ann.]

Annuities:

The benefits, rights, privileges, and options due or prospectively due an annuitant are not subject to execution nor shall the annuitant be compelled to exercise his rights and powers, nor shall creditors be allowed to interfere with or terminate the contract; except that the exemption shall not apply to amounts paid for any annuity with intent to defraud creditors, or to so much of the annuity benefits as exceed the exemptions granted annuitant by law.[§23-79-134, Ark. Stats. Ann.]

Spendthrift Provisions: Trusts—

No statutory provision. However, spendthrift trusts are held valid. [Bowlin v. Citizens Bank & Trust Co., 131 Ark. 97, 198 S.W. 288 (1917)]

Insurance Proceeds—

No statutory provision.

Premiums:

Premiums paid in fraud of creditors may be recouped, with interest, from the proceeds of the policy. [§23-79-131(a)(2), Ark. Stats. Ann.]

California

Federal Election:

Not allowed.[Cal. Civ. Proc. Code §703.130]

Life Insurance: Death Proceeds—

Two alternative state law exemptions are available. In nonbankruptcy cases, §704.100 applies exclusively, but does not provide an exemption for death proceeds. In bankruptcy cases, the debtor may make an election under §703.140(b). Under such an election, all death proceeds of policies payable to a debtor who is a dependent of the insured are exempt.[Cal. Civ. Proc. Code §703.140(b)(11)(C)]

Endowment And Surrender Proceeds—

Unmatured life insurance and endowment policies are exempt under §704.100(a). The aggregate loan value of unexpired life, endowment and annuity policies is exempt under this provision to the amount of \$8000 (\$16,000 for married debtors). And benefits from matured policies are exempt to the extent reasonably necessary for the support of the judgment debtor and the spouse and dependents of the judgment debtor. Dividends and loan values aggregating \$9300 are exempt under Cal. Civ. Proc. Code § 703.140(b)(6), [Cal. Civ. Proc. Code §704.100]

Group Insurance:

Same as other insurance.

Fraternal, Etc., Insurance:

Same as other insurance. [Compare Cal. Civ. Proc. Code §704.170]

Disability Benefits:

Exempt.[Cal. Civ. Proc. Code § 703.140 (b)(10)(C), 704.130]

Annuities:

Same as endowment and surrender proceeds. Also see Cal. Civ. Process Code §704-100

Spendthrift Provisions: Trusts—

If there is no provision for accumulation of income in a trust, a judgment creditor may reach any income beyond that necessary for the education and support of the beneficiary.[Cal. Prob. Code §15307] However, subject to certain qualifications, if a trust provides that a beneficiary's interest in income or principal is not subject to voluntary or involuntary transfer, the beneficiary's interest is not subject to the enforcement of a money judgment until it is paid to the beneficiary. [Cal. Prob. Code §15300]

Insurance Proceeds—

A policy may provide that the proceeds may not be alienated and are not subject to the claims of creditors.[Cal. Ins. Code § §10132,10171]

Premiums:

No statutory provision.

Colorado

Federal Election:

Not allowed.[Colo. Stat. 13-54-107]

Life Insurance: Death Proceeds—

The proceeds of policies or certificates of life insurance paid upon the death of the insured to a designated beneficiary are exempt from writ of attachment or writ of execution.[Colo. Rev. Stats. 13-54-102(I)(B)]

Endowment And Surrender Proceeds—

Cash surrender values exempt to the amount of \$50,000, except for increases contributed up to 48 months before the writ of attachment or execution is issued. [Colo. Rev. Stats. §13-54-102(I)(I)(A)]

Group Insurance:

Policies of group insurance and the proceeds thereof are exempt from claims of creditors of the member and of the beneficiary.[Colo. Stat. §10-7-205]

Fraternal, Etc., Insurance:

Proceeds of fraternal benefit societies are exempt from execution to

pay any debt of the member or beneficiary or any other person, either before or after payment.[Colo. Rev. Stats. §10-14-403.]

Disability Benefits:

Sickness and accident insurance payments are exempt up to \$200 per month during any period of covered disability. A lump sum payment for an insured loss is also exempt.[Colo. Rev. Stats. §10-16-212]

Annuities:

No statutory provision.

Spendthrift Provisions: Trusts—

There is no general statute, but spendthrift trusts are held valid. [Snyder v. O`Conner, 102 Colo. 567, 81 P.2d 773 (1938); Brassier v. Hutchinson, 549 P.2d 801 (Colo. App. 1976)]

Insurance Proceeds—

A statute provides that proceeds of annuity contracts and life insurance policies retained by the insurer at maturity may, by agreement, be exempt from the claims of creditors of the beneficiary. [Colo. Rev. Stats. §10-7-106]

Premiums:

No statutory provision.

Connecticut

Federal Election:

Allowed.

Life Insurance: Death Proceeds—

The beneficiary of any life policy, if a person other than the insured (whether named in the original policy or later under the terms of the policy), is entitled to the proceeds of such policy as against the representatives or creditors of the insured.[§38a-453, Conn. Gen. Stats.]

Endowment And Surrender Proceeds—

Loan values of unmaturred life insurance policies up to \$4000 are exempt, if the insured is the person claiming the exemption or a dependent of that person. [§52-352b-(s), Conn. Gen. Stats.]

Group Insurance:

No specific statutory provision.

Fraternal, Etc., Insurance:

Fraternal benefit society payments are exempt from claims of creditors of members and beneficiaries.[§38a-467, Conn. Gen. Stats.]

Disability Benefits:

Exempt. [§52-352b(e), Conn. Gen. Stats.]

Annuities:

No statutory provision.

Spendthrift Provisions: Trusts—

Spendthrift trusts are recognized by statute. [§52-321(d), Conn. Gen. Stats.] Where the trust is expressly for the support of the beneficiary or his family, only the surplus income over that needed for support can be reached by creditors. See *Hildreth Press Employees Federal Credit Union v. Connecticut General Life Insurance Co.*, 30 Conn. Supp. 513, 295 A.2d 54, cert. denied, 163 Conn. 643, 295 A.2d 669 (1972) (where documents setting up employee pension fund gave trustees of fund the power to withhold payments and provided that payments from fund were expressly reserved for support of beneficiary, there was created a valid spendthrift trust which protected funds of beneficiary employee from attachment or garnishment by creditor).

Insurance Proceeds—

Any domestic insurance company may hold the proceeds of any policy issued by it under a trust or other agreement upon such terms and restrictions as to revocation by the policyholder and control by the beneficiary, and which such exemptions from the claims of creditors of the beneficiary, other than the policyholder, as are agreed to in writing by such company and the policyholder. The act applies also to proceeds of life insurance or annuity contracts held by nonresident or foreign companies doing business within the state.[§38a-454, Conn. Gen. Stats.]

Premiums:

If a policy is procured or the beneficiary named with the intent to defraud creditors, the proceeds become part of the insured's estate to be used by the administrator to pay debts and costs of administering and then to pay any balance over to the beneficiary. If any premiums have been paid with intent to defraud creditors, the amount thereof

becomes part of the estate to be similarly used by the administrator.
[§38a-453(b), Conn. Gen. Stats.]

Delaware

Federal Election:

Not allowed.[Del. Code §10-4914(a)]

Life Insurance: Death Proceeds—

The proceeds of life insurance policies taken out by a person on his own or another's life and payable to a beneficiary are free from claims of creditors of the insured or beneficiary. [Title 18, §2725(a), Del. Code Ann.]

Endowment And Surrender Proceeds—

No statutory provision.

Group Insurance:

Policies or proceeds payable to the insured or beneficiary are not liable for the debts of the insured or beneficiary either before or after payment of such proceeds. [Title 18, §2727(a), Del. Code Ann.]

Fraternal, Etc., Insurance:

Fraternal benefit society payments are exempt from the debts of a member or beneficiary. [Title 18, §6118, Del. Code Ann.]

Disability Benefits:

The proceeds of all contracts of health insurance and of provisions providing benefits on account of the insured's disability which are supplemental to life insurance or annuity contracts shall be exempt from all liability for any debt of the insured, and from any debt of the beneficiary existing when the proceeds are made available to him. [Title 18, §2726, Del. Code Ann.]

Annuities:

Benefits not in excess of \$350 a month from all annuity contracts are exempt from the claims of creditors of the annuitant. Amounts paid for, on a premium on the annuity with intent to defraud creditors plus interest, inure to the creditors.[Title 18, §2728, Del. Code Ann.]

Spendthrift Provisions: Trusts—

Spendthrift trusts are authorized and protected by statute. However, a

beneficiary may assign gratuitously in writing a stated part of his entire remaining income interest in such trust to the State of Delaware, or to an eligible corporation, church, community chest, fund or foundation. The amount of the interest, however, is not to bring income below 50 percent of what the interest would be if the assignment were not made.[Title 12, §3536, Del. Code Ann.]

Insurance Proceeds—

Any life insurer shall have power to hold payment of proceeds, as shall have been agreed to in writing by the insurer and the insured or beneficiary. [Title 18, §2729, Del. Code Ann.]

Premiums:

Premiums paid with the intent to defraud creditors, with interest, inure to the creditors out of the proceeds.[Title 18, §2725, Del. Code Ann.]

District Of Columbia

Federal Election:

Allowed.

Life Insurance: Death Proceeds—

The proceeds of a policy effected by any person on his own life or on another's life, in favor of a person other than himself, shall go to the named beneficiary as against the creditors and representatives of the insured or the person effecting the insurance, whether or not the right to change the beneficiary has been reserved, and whether or not the policy reverts to the insured if the beneficiary dies first.[§31-4716, D.C. Code]

Endowment And Surrender Proceeds—

Section 31-4716(a) has been interpreted as exempting cash surrender values in bankruptcy proceedings so long as the insured is not the beneficiary and the beneficiary has an insurable interest. In re Davis, 275 Bankr. 134 (D.D.C. 2002).

Group Insurance:

Group insurance proceeds are exempt from claims of the creditors of the insured-employee and of his beneficiary as well.[§31-4717, D.C. Code]

Fraternal, Etc., Insurance:

No statutory provision.

Disability Benefits:

Disability insurance payments are exempt from creditors of the insured, except where the claims arise from furnishing of necessities. [§37-4716.01, D.C. Code]

Annuities:

No specific statutory provisions but a statement on insurance, and "annuities, not otherwise exempted, not to exceed \$200 each month, of a person residing in the District of Columbia, or of a person who earns the major portions of his livelihood in the District of Columbia, . . . who provides the principal support of a family, for two months next preceding the issuing of any writ or process against him, . . . are exempt from process". [§15-503, D.C. Code] With persons in like situations who do not provide the support of a family, the exemption is not to exceed \$60.00 per month. [§115-503(b), D.C. Code]

Spendthrift Provisions: Trusts—

There is no general statute; however spendthrift trusts are held valid. [Morrow v. Apple, 26 F.2d 543 (D.C. Cir. 1928)]

Insurance Proceeds:

Any life company licensed under the laws of the District may hold the proceeds of any policy issued by it with such exemptions from the claims of creditors of the beneficiaries other than the policyholder as shall have been agreed to in writing between the insurer and policyholder. [§31-4719, D.C. Code]

Premiums:

Premiums paid with the intent to defraud creditors, together with interest, will inure to their benefit out of the proceeds. [§31-4716, D.C. Code]

Florida

Federal Election:

Not allowed. [F.S.A., §222.20]

Life Insurance: Death Proceeds—

Proceeds of life insurance paid to any named beneficiary (other than the insured's estate) are exempt from the claims of the insured's creditors. [F.S.A., §222.13]

Endowment And Surrender Proceeds—

The cash surrender values of life insurance policies issued upon the life of a resident are not subject to creditors of the insured, unless the policy was effected for the benefit of such creditors.[F.S.A., §222.14]

Group Insurance:

No specific statutory provision.

Fraternal, Etc., Insurance:

The benefits of a fraternal society are exempt from creditors of the member, beneficiary, or any other person.[F.S.A., §632.619]

Disability Benefits:

Disability income benefits under any policy or contract of life, health, accident or other insurance of whatever form are exempt from attachment, garnishment or other legal process in favor of any creditor of the recipient, unless the policy was effected for the benefit of such creditor.[F.S.A., §222.18]

Annuities:

Exempt.[F.S.A., §222.14]

Spendthrift Provisions: Trusts—

No statutory provisions. But spendthrift trusts are held valid. [Waterbury v. Munn, 159 Fla. 754, 32 So. 2d 603 (1947)]

Insurance Proceeds—

No cases have been found dealing with a spendthrift trust clause in an insurance policy.

Premiums:

No statutory provision nor cases have been found dealing with premiums paid in fraud of creditors.

Georgia

Federal Election:

Not allowed.[Ga. Code Ann. §44-13-100(b)]

Life Insurance: Death Proceeds—

The proceeds of any life, endowment or annuity policy effected by any person on his own life or another's life, in favor of a person other than

himself, shall go to the named beneficiary as against the creditors and representatives of the insured or the person effecting the insurance, whether or not the right to change the beneficiary has been reserved, and whether or not the policy is payable to the insured if the beneficiary dies first.[§33-25-11 Ga. Code Ann.]

Endowment And Surrender Proceeds—

Unmatured policies are exempt. Dividends, interest, and loan values are exempt up to \$2,000.[Ga. Code Ann. §44-13-100(a)(8) and (9)]

Group Insurance:

The proceeds of group insurance are exempt from the claims of creditors unless such insurance was issued in their favor.[§33-27-7, Ga. Code Ann.]

Fraternal, Etc., Insurance:

Benefits of a fraternal society are exempt from creditors of the member and beneficiary.[Ga. Code Ann. §33-15-62]

Disability Benefits:

Proceeds of accident and health policies, and of disability provisions supplemental to life insurance or annuity contracts, are exempt from liability for the insured's or beneficiary's debts; except the exemption shall not apply to so much of the benefits as exceed \$250 per month. [§33-29-15, Ga. Code Ann.] This exemption is available regardless whether the debtor is bankrupt. A debtor in bankruptcy may elect to exempt all disability, illness, or unemployment benefits.[Ga. Code Ann. §44-13-100(a)(2)(C)]

Annuities:

Annuity proceeds are exempt from creditors in the same manner as life insurance proceeds. [Ga. Code Ann. §33-28-7]

Spendthrift Provisions: Trusts—

Spendthrift trusts are valid and enforceable. [§53-12-28, Ga. Code Ann.]

Insurance Proceeds—

No case has been found dealing with a spendthrift trust clause in an insurance policy.

Premiums:

Premiums paid with the intent to defraud creditors inure to their benefit

out of the proceeds.[§33-25-11, Ga. Code Ann.]

Hawaii

Federal Election:

Allowed.

Life Insurance: Death Proceeds—

All proceeds payable to a dependent because of the death of the insured under any life or endowment policy or annuity contract, whether or not the right to change the beneficiary is reserved, and whether or not the estate of the insured is a contingent beneficiary, shall be exempt from execution, attachment or other process for the debts or liabilities of the insured. [§431:10-232(a), Haw. Rev. Stats.]

Endowment And Surrender Proceeds—

The aggregate net cash value of any or all life and endowment policies and annuity contracts payable to a wife or husband of the insured, or to a child, parent or other person dependent upon the insured, are exempt to the same extent and under the same circumstances as are the death proceeds.[§431:10-232(a), Haw. Rev. Stats.]

Group Insurance:

The proceeds of group insurance are exempt from claims of creditors, unless such insurance was issued in their favor.[§431:10-233, Haw. Rev. Stats.]

Fraternal, Etc., Insurance:

Fraternal benefits are not attachable by the creditors of a member or beneficiary.[§432:2-403, Haw. Rev. Stats.]

Disability Benefits:

Proceeds of disability insurance policies and disability benefits supplemental to life or annuity policies are exempt from liability for the insured's debts or debts of the beneficiary when the proceeds are made available.[§431:10-231, Haw. Rev. Stats.]

Annuities:

See "Life Insurance" above.

Spendthrift Provisions: Trusts—

No statutory provision. However, spendthrift trusts are held valid.

[Welsh v. Campbell, 41 Haw. 106 (1955); see Security Pacific Bank Washington v. Chang, 80 F.2d 1412 (9th Cir. 1996)]

Insurance Proceeds:

The proceeds of any life or endowment policy or annuity contract may be retained by the company for payment to any beneficiary, other than the insured, and such beneficiary may not commute, encumber, assign or otherwise anticipate his interest if such right is expressly denied him by the terms of the policy. If the beneficiary is the spouse, child, parent or other person dependent upon the insured, his interest under the settlement plan is exempt from claims of creditors of such beneficiary, whether or not the contract or policy permits or denies him the right to commute, encumber, alienate, assign or otherwise anticipate his interest.[§431:10-232(b) Haw. Rev. Stats.]

Premiums:

If premiums are paid in fraud of creditors, they may bring suit to recover such premiums.[§431:10-232(a), Haw. Rev. Stats.]

Idaho

Federal Election:

Not allowed.[Idaho Code §11-609]

Life Insurance: Death Proceeds—

The proceeds of a policy of insurance effected by any person on his own life or on another's life, in favor of a person other than himself, shall go to the named beneficiary as against the creditors and representatives of the insured and of the person effecting the insurance, and such proceeds are also exempt from all liability from any debt of the beneficiary existing at the time the policy is made available for her use; and this is true whether or not the right to change the beneficiary was reserved, and whether or not the policy is made payable to the insured if the beneficiary dies first.[§41-1833, Idaho Code]

Endowment And Surrender Proceeds—

Cash surrender values are exempt to the same extent and under the same circumstances as are death proceeds.[§41-1833, Idaho Code]

Group Insurance:

The proceeds of group insurance are exempt from claims of the creditors of the insured employee and his beneficiary.[§41-1835, Idaho Code.]

Fraternal, Etc., Insurance:

The benefits of a fraternal society are exempt from creditors of the member, beneficiary or any other person having a right thereunder. [§41-3218, Idaho Code]

Disability Benefits:

Proceeds of disability insurance, whether provided by separate contract or by supplement to a life insurance or annuity contract, are exempt from the insured's and beneficiary's debts existing at the time the proceeds are made available.[§41-1834 Idaho Code]

Annuities:

The benefit, rights, privileges and options due or prospectively due an annuitant are not subject to execution, nor shall the annuitant be compelled to exercise his or her rights and powers, nor shall creditors be allowed to interfere with or terminate the contract; except that the exemption shall not apply (1) to amounts paid for any annuity with intent to defraud creditors, or (2) to so much of the annuity benefits as exceed the sum of \$1250 per month.[§41-1836, Idaho Code]

Spendthrift Provisions: Trusts—

No statutory provision validating spendthrift trusts. However, Idaho Code §11-604A(5) recognizes employee benefit plans as spendthrift trusts..

Insurance Proceeds:

No cases have been found dealing with a spendthrift trust clause in an insurance policy.

Premiums:

Premiums paid with the intent to defraud creditors will inure, together with interest, to the benefit of those creditors.[§41-1833, Idaho Code]

Illinois

Federal Election:

Not allowed [735 ILCS 5/12-1201]

Life Insurance: Death Proceeds—

All proceeds of life insurance payable because of the death of the insured and the aggregate net cash value of all life and endowment policies and annuity contracts payable to a wife, husband, child, parent

or other person dependent on the insured, whether or not the right to change the beneficiary is reserved and whether or not the insured or his estate is a contingent beneficiary, shall be exempt from execution, attachment, garnishment or other process for the debts and liabilities of the insured.[215 ILCS 5/238]

Endowment And Surrender Proceeds—

Endowment policies are exempt. [215 ILCS 5/238] See "Life Insurance" above.

Group Insurance:

No specific statutory provision.

Fraternal, Etc., Insurance:

No statutory provision.

Disability Benefits:

No statutory provision.

Annuities:

See "Life Insurance," above.

Spendthrift Provisions: Trusts—

Property held in trust for a debtor is exempt if the trust has, in good faith, been created by a person other than the judgment debtor. [735 ILCS §5/2-1403]

Insurance Proceeds:

Any domestic life company may hold the proceeds of any policy issued by it with such exemptions from claims of creditors of beneficiaries other than the policyholder as shall have been agreed to in writing by such company and the policyholder. The same rule applies to a foreign or alien company when authorized by its charter or laws of its domicile. [215 ILCS 5/241]

Premiums:

Premiums paid in fraud of creditors may be recovered by such creditors.[215 ILCWS 5/238]

Indiana

Federal Election:

Not allowed.[Ind. Code §34-55-10-1]

Life Insurance: Death Proceeds—

A policy naming as beneficiary, or assigned to, a spouse, child, or dependent relative of the insured is exempt from the claim of creditors. This includes death proceeds, cash surrender and loan values, premiums waived and dividends.[Ind. Code §27-1-12-14]

Endowment And Surrender Proceeds—

See above.

Group Insurance:

The proceeds of group insurance are exempt from claims of creditors of the insured-employee and of the beneficiary as well.[Ind. Code §27-1-12-29]

Fraternal, Etc., Insurance:

No statutory provision.

Disability Benefits:

No statutory provision. Held not exempt when debtor could not prove that they derived from his group policy. *Perkins v. Kocher*, 531 N.E.2d 231 (Ind. App. 1988), overruled on other grounds, *Brosamer v. Mark*, 540 N.E.2d 652 (Ind. App. 1989).

Annuities:

No specific provision.

Spendthrift Provisions: Trusts—

Spendthrift trusts are recognized as valid, except that they may not be recognized if the grantor of the trust is a beneficiary.[Ind. Code §30-4-3-2]

Insurance Proceeds—

Insurance companies may hold proceeds of life insurance or annuities in trust with such exemptions from the claims of creditors of beneficiaries other than the policyholder as are agreed to by the insurer and the policyholder except where payable to the person providing the consideration.[Ind. Code §27-2-5-1] In addition, proceeds paid into a trust are not part of the insured's estate and are not subject to the debts or taxes of the insured to any greater extent than if they were paid to a named beneficiary other than the estate.[Ind. Code §27-1-12-16(e)]

Premiums:

A premium paid for an individual life insurance policy that names a dependent as a beneficiary is not exempt from claims of creditors of the policy owner if it is paid to defraud them. [Ind. Code § 27-2-5-1(c)]

Iowa

Federal Election:

Not allowed.[§627.10, Iowa Code]

Life Insurance: Death Proceeds—

The proceeds of any life or accident insurance or other sum of money made payable to the decedent's estate by any mutual aid or benevolent society upon the death or disability of a member thereof are not subject to the debts of the decedent except by contract or express provision in the will. [§ 633.333, Iowa Code Ann.]

Endowment And Surrender Proceeds—

An individual may exempt from execution his interest in any accrued dividend or interest, loan, or cash surrender value or any other interest in a life insurance policy owned by the individual if the beneficiary is a dependent, but only to the amount of \$10,000. [§ 627.6(6), Iowa Code Ann.]

Group Insurance:

Proceeds are exempt from liability for the debts of the insured employee or the beneficiary.[§509.12, Iowa Code Ann.]

Fraternal, Etc., Insurance:

See "Life Insurance," above]

Disability Benefits:

Benefits paid under an accident, health or disability policy are, by statute, exempt to the assured, or, in case of death, to the spouse, and children, from his debts. Debts of the beneficiary incurred prior to the death of the insured are also exempt, but only to the amount of \$15,000.[§627.6(6), Iowa Code Ann.]

Annuities:

No statutory provision.

Spendthrift Provisions: Trusts—

Spendthrift trusts are held valid by the Iowa courts.[In Re Bucklin's Estate, 243 Iowa 312, 51 N.W.2d 412 (1952)]

Insurance Proceeds—

Any life insurance company organized under this chapter and doing business in the state shall have the power to hold in trust the proceeds of any life insurance policy issued by it, upon such conditions as to revocation by the policyholder and control by the beneficiary as are agreed upon by the policyholder and the insurer.[§508.32, Iowa Code Ann.]

Premiums:

No statutory provision.

Kansas

Federal Election:

Not allowed, excepting the exemptions allowed under 11 U.S.C. §522 (d)(10).[§60-2312, Kan. Gen. Stats.]

Life Insurance: Death Proceeds—

A policy of insurance issued by a life insurance company or a beneficiary certificate issued by a fraternal benefit society on the life of any individual and payable at the death of the insured or in any given number of years to any person or persons having an insurable interest in the life of the insured is exempt from claims of the insured's creditors or those of the person effecting the insurance, both as to the proceeds and the reserves or present value thereof.[§40-414(a), Kan. Gen. Stats.] However, this exemption does not apply to nonforfeiture values if (1) the policyholder files a bankruptcy petition within one year after obtaining the policy or (2) execution on judgment is obtained within one year after the policy was issued and the debtor obtained the policy for the purpose of defrauding one or more creditors.[§40-414(b), Kan. Gen. Stats.]

Endowment And Surrender Proceeds—

Exempt.[§40-414(a), Kan. Gen. Stats.]

Group Insurance:—

No specific statutory provision.

Fraternal, Etc., Insurance:

Payments of fraternal benefit societies are exempt from claims of

creditors of the member or beneficiary and from all taxes.[§40-414(a), Kan. Gen. Stats.] See also "Life Insurance," above.

Disability Benefits:

Exempt from process if exempted by the statutes enumerated in §60-2313(a)(1), Kan. Gen. Stats.

Annuities:

Same as "Disability Benefits," above.

Spendthrift Provisions: Trusts—

In 2002, Kansas enacted the Uniform Trust Code, which explicitly recognizes the validity of spendthrift trusts [§58a-502, Kan. Gen. Stats.]. See also cases such as *Sherman v. Havens*, 94 Kan. 654, 146 P. 1030 (Kansas 1915)

Insurance Proceeds:

Proceeds of life insurance policies and annuity contracts may be retained by the insurer under an agreement with the policyholder, and such proceeds, together with interest, shall not be liable for the debts of the beneficiary, where he is not the policyholder.[§40-414a, Kan. Gen. Stats.] Note also the beneficiary's exemption contained in §40-414(a)(3) and (4) which extends to bar all taxes, and claims and judgments acquired by creditors, against the beneficiary.

Although the proceeds of a life insurance policy were originally exempt from debts of the beneficiary, and continued to be so when deposited in a bank account, when they were subsequently invested in non-exempt property (stocks), they no longer retained their exempt character.[*Independence Savings & Loan Assn. v. Sellers*, 149 Kan. 652, 88 P.2d 1059 (Kansas 1939)]

Premiums:

No statutory provision.

Kentucky

Federal Election:

Not allowed.[KRS §427.170]

Life Insurance: Death Proceeds—

A policy of insurance, effected by any person on his own life or on another's life, in favor of a person other than himself, shall be payable

to the beneficiary free from all liability for any debt of the insured or the beneficiary existing at the time the policy is made available for his use.
[KRS. §304.14-300(1)]

A policy of insurance on the life of any person for the benefit of or payable to any married woman, or to someone in trust for her, or a policy taken out by her on the life of her husband or children, or against loss by his or their disablement, shall inure to her benefit only, and that of her children, independently of her husband or his creditors.
[KRS. §304.14-340]

Endowment And Surrender Proceeds—

(1) Any life insurer shall have power to hold the proceeds of any life or endowment insurance or annuity contract issued by it upon such terms and conditions as agreed to in writing by the insurer, and the insured or beneficiary. (2) The provisions of the section shall not impair the rights of creditors under KRS § §304.14-300 and 304.14-330.[KRS §304.14-350]

Group Insurance:

Proceeds of group life insurance or group health insurance payable to the insured or beneficiary are not liable, either before or after payment, for the debts of any person having rights under the policy. This exemption does not extend to credit group policy proceeds when applied to payment of the debt for which the insurance was effected.
[KRS §304.14-320]

Fraternal, Etc., Insurance:

Fraternal benefit payments are exempt from creditors of the insured and of the beneficiary, and assessment or cooperative life insurance proceeds are exempt from creditors of the members.[KRS §304.29-181]

Disability Benefits:

Except as otherwise provided by the policy or contract, the proceeds of all contracts of health insurance and of provisions providing benefits because of the insured's disability which are supplemental to life insurance or annuity contracts shall be exempt from all liability for any debt of the insured, and from any debt of the beneficiary existing at the time the proceeds are made available for his use.[KRS §304.14-310]

Annuities:

The benefits, rights, privileges and options due or prospectively due an annuitant are not subject to execution, nor shall the annuitant be compelled to exercise his rights and amounts paid on any annuity with intent to defraud creditors, and except that the exemption shall not attach to so much of the annuity benefits as exceed \$350 per month.

[KRS §304.14-330]

Spendthrift Provisions: Trusts—

Estates of every kind held in trust, except for spendthrift trusts created by the settlor, are subject to the debts and charges of the beneficiaries of the trust. However, even though a trust is a spendthrift trust, the interest of the beneficiary is subject to an enforceable claim against the beneficiary by his wife or child for support, for services rendered to the beneficiary, or for Federal or Commonwealth taxes owed by him. [KRS §381.180]

Insurance Proceeds:

A company may hold the proceeds of any life or endowment policy or annuity contract with exemptions from legal process and claims of creditors of beneficiaries other than the insured.[KRS §304.14-350]

Premiums:

Premiums paid with intent to defraud creditors, with interest thereon, shall inure to their benefit from the proceeds of the policy.[KRS §304.14-300(1)]

Louisiana

Federal Election:

Not allowed.[Title 13 §3881(B)(1) La. Rev. Stats.]

Life Insurance: Death Proceeds—

The beneficiary, including the insured's estate, of a life insurance or endowment policy or annuity contract is entitled to the proceeds of the policy or contract as against the creditors and representatives of the insured and of the person effecting the policy or contract, and such proceeds are also exempt from any debt of the beneficiary existing at the time the proceeds are made available for his own use. This section applies whether or not the right to change the beneficiary has been reserved, and whether or not the policy is payable to the insured or his estate in the event the beneficiary should predecease him.[Title 22, §647 La. Rev. Stats.]

Endowment And Surrender Proceeds—

Exempt, except for debts secured by a pledge of the policy, rights under an assigned policy and advance payments made on or against a policy.[Title 22, §647 La. Rev. Stats.]

The exemption is limited to \$35,000 if the policy was issued within nine months of the attempted execution or of the filing of a bankruptcy

petition under the United States Code. [Title 22, §647(A)(2) La. Rev. Stat.]

Group Insurance:

Group life insurance proceeds (except proceeds of debtor-group policies) payable to the insured or any beneficiary thereunder are not liable, either before or after payment, for any liability of any person having a right under the policy, and if payable to the estate of the insured such proceeds do not constitute a part of the estate for the payment of debts.[Title 22, §649, La. Rev. Stats.]

Fraternal, Etc., Insurance:

No money, benefit, charity, relief or aid paid by any fraternal benefit society is liable to legal or equitable process to pay any debt of a member, beneficiary or person having a right thereunder, either before or after payment.[Title 22, §558, La. Rev. Stats.]

Disability Benefits:

A statute exempts the proceeds of contracts of health and accident insurance and of provisions providing benefits on account of the insured's disability that are supplemental to life insurance or annuity contracts, from all liability for any debt of the insured and any debt of the beneficiary existing at the time the proceeds are made available for his use.[Title 22, §646, La. Rev. Stats.]

Annuities:

See "Life Insurance" above.

Spendthrift Provisions: Trusts—

Despite spendthrift stipulations in the trust instrument, a court may permit the seizure of any portion of the beneficiary's interest in the trust income and principal, if the claim is based upon a judgment for: alimony or support for a person the beneficiary is obligated to support; services rendered the beneficiary or a legal dependent, or an offense or quasi-offense committed by the beneficiary or person he is legally responsible for.[Title 9, §2005, La. Rev. Stats.]

Insurance Proceeds—

A settlor may create an inter vivos or a testamentary trust upon the proceeds of life insurance.[Title 9, §1881, La. Rev. Stats.]

Premiums:

No statutory provision.

Maine

Federal Election:

Not allowed. [Ch. 14- §4426, Me. Rev. Stats.]

Life Insurance: Death Proceeds—

The proceeds of any policy of life, accident, annuity or endowment insurance acquired by any person on his own life or on another's life, in favor of a person other than himself, shall go to the lawful named beneficiary as against the creditors and representatives of the insured, whether or not the right to change the beneficiary is reserved, and whether or not the policy reverts to the insured if the beneficiary dies first.[Ch. 24-A- §2428, Me. Rev. Stats.]

A separate statute exempts any unmatured life insurance (except for credit life insurance) owned by the debtor, as well as

Endowment And Surrender Proceeds—

Exempt to the amount of \$4,000 in dividends, interest and loan values in any policy owned by the debtor under which the insured is the debtor or a person of whom the debtor is a dependent.[Ch. 14- §4422 (11), Me. Rev. Stats.]

Group Insurance:

The proceeds of a group life insurance or group health insurance policy payable to the individual insured or to the beneficiary are not liable to be applied to pay any debt of such insured or his beneficiary or of any other person having a right under the policy.[Ch. 24-A- §2430, Me. Rev. Stats.]

Fraternal, Etc., Insurance:

Money or other benefits to be paid or provided by a fraternal benefit society are exempt from the creditors of the certificate holder or of the beneficiary either before or after payment by the society.[Ch. 24-A- §4118, Me. Rev. Stats.]

Disability Benefits:

The proceeds of all contracts of health insurance and of provisions providing benefits on account of the insured's disability which are supplemental to life insurance or annuity contracts shall be exempt from all liability for any debt of the insured and from any debt of the beneficiary existing at the time the proceeds are made available for his use.[Ch. 24-A- §2429, Me. Rev. Stats.]

Annuities:

The benefits and privileges under any individual annuity contract shall not be subject to execution nor shall the annuitant be compelled to exercise any rights, powers or options he may have, nor may creditors interfere with or end the contract; except as to amounts paid with intent to defraud creditors or as to annuity payments which exceed \$450 per month.[Ch. 24-A- §2431, Me. Rev. Stats.]

Spendthrift Provisions: Trusts—

No statutory provision, but such trusts are held valid by state courts. [University of Maine Foundation v. Fleet Bank of Maine, 817 A.2d 871 (Maine 2003)]

Insurance Proceeds:

No case has been found dealing with a spendthrift trust clause in an insurance policy.

Premiums:

The amount of premium paid with the intent to defraud creditors will inure to their benefit out of the proceeds.[Ch. 24-A- §2428, Me. Rev. Stats.] Also see "Annuities " above.

Maryland

Federal Election:

Not allowed. [Art. 11, §504(g), Ann. Code of Md.]

Life Insurance: Death Proceeds—

Proceeds, including death benefits, cash surrender and loan values, premiums waived and dividends of any life insurance policy or annuity contract made for the benefit of or assigned to the spouse, children or dependent relatives of decedent, are exempt from creditors. Policies pledged to creditors, however, are excepted.[Title 16, §111, Ann. Code of Md., Insurance]

Endowment And Surrender Proceeds—

No statutory provision.

Group Insurance:

No specific statutory provision.

Fraternal, Etc., Insurance:

Fraternal benefit payments are exempt from creditors of the member

and beneficiary.[Title. 8, §431, Ann. Code of Md., Insurance]

Disability Benefits:

Exempt except in action for necessities contracted for after disability incurred. [Title 11, §504(b)(2), Ann. Code of Md., Courts & Judicial Procedure]

Annuities:

See "Life Insurance," above.

Spendthrift Provisions: Trusts—

No statutory provision, but state courts uphold the validity of these trusts.[Medwedeff v. Fisher, 179 Md. 192, 17 A.2d 141 (1941)]

Insurance Proceeds—

A spendthrift trust clause in a life insurance policy issued by an out-of-state company has been held valid and enforceable.[Michaelson v. Sokalove, 169 Md. 529, 182 A. 458 (1936)]

Premiums:

No statutory provision.

Massachusetts

Federal Election:

Allowed.

Life Insurance: Death Proceeds—

The proceeds of any life or endowment insurance payable to or for the benefit of a person other than the insured goes to the lawful beneficiary thereof as against the creditors and representatives of the person effecting the insurance, whether or not the right to change the beneficiary is reserved.[Ch. 175, §125, Ann. Laws of Mass.]

A further provision exempts the proceeds of every policy of life or endowment insurance payable to or for the benefit of a married woman or her children, except for the premiums paid in fraud of creditors.[Ch. 175, §126, Ann. Laws of Mass.]

Endowment And Surrender Proceeds—

See "Life Insurance" above.

Group Insurance:

Proceeds of group insurance are exempt from creditors of the insured employee and of the beneficiary as well, except to satisfy a support order under Ch. 208, 209 or 273.[Ch. 175, §135, Ann. Laws of Mass.]

Fraternal, Etc., Insurance:

Fraternal benefit payments are exempt from claims of members and of their beneficiaries.[Ch. 176, §22, Ann. Laws of Mass.]

Disability Benefits:

Disability payments are exempt up to \$400 per week during the period of disability, except in an action to recover for necessities.[Ch. 175, §110A, Ann. Laws of Mass.]

Annuities:

Group annuities and any proceeds thereof are exempt from the creditors of the annuitant, his beneficiary or any other person having a right thereunder, except that an annuitant's benefits can be seized to satisfy a support order under Ch. 208, 209 or 273.[Ch. 175, §132C, Ann. Laws of Mass.]

Spendthrift Provisions: Trusts—

Massachusetts has no general statute dealing with spendthrift trusts, but its courts have led in establishing the validity of such trusts. [E.g. Gershaw v. Gershfield, 52 Mass. App. 81, 751 N.E.2d 424 (2001)]

Insurance Proceeds—

If under the terms of any annuity contract or policy of life insurance or any supplemental written agreement the proceeds are to be retained by the insurer at maturity, the payments are not subject to the debts of the beneficiary if the agreement so provides.[Ch. 175, §119A, Ann Laws of Mass.]

Premiums:

Premiums paid in fraud of creditors will inure to their benefit out of the proceeds.[Ch. 175, §125, Ann. Laws of Mass.]

Michigan

Federal Election:

Allowed (600.6023, Mich. Stats. Ann.).

Life Insurance: Death Proceeds—

The proceeds of any policy of life or endowment insurance payable to the wife, husband or children of the insured or to a trustee for their benefit, including the cash value thereof, are exempt from execution or liability to any creditor of the insured, and the exemption is applicable, whether such persons were named as beneficiaries when the policy was originally issued or later through a beneficiary change or assignment of the policy.

The section further provides that proceeds, including the cash value thereof, of any insurance policy or annuity contract, effected by any person on his own life or on that of another, in favor of a person other than himself, are exempt from the claims of creditors of the insured, whether or not the policy is made payable to the insured in the event the beneficiary predeceases the insured, and whether or not the right to change the beneficiary was reserved.[500.2207, Mich. Stats. Ann.]

A creditor named as beneficiary in an insurance policy on the life of his debtor is entitled only to reimbursement to the extent of his security interest in the policy.[Balcer v. Peters, 37 Mich. App. 492, 195 N.W.2d 83 (1972)]

Endowment And Surrender Proceeds—

The cash surrender value of a policy of insurance on the life of the husband, payable to the wife, is exempt from the claims of insured's creditors in bankruptcy.[In re Bendall, 28 F.2d 999 (D. Mich. 1928)] Also see "Life Insurance" above.

Group Insurance:

No specific statutory provision.

Fraternal, Etc., Insurance:

Payments of fraternal benefit societies are exempt from creditors of the certificate holder and beneficiary.[500.8181, Mich. Stats. Ann.]

Disability Benefits:

Exempt from levy and sale under any execution are any moneys or other benefit paid, provided or allowed by any stock or mutual life or health or casualty insurance company on account of the disability due to injury or sickness of any insured person, whether debt or liability of such insured or beneficiary was incurred before or after the accrual of benefits under insurance policies, except in an action for necessities. [600.6023, Mich. Stats. Ann.]

Annuities—

See "Life Insurance" above.

Spendthrift Provisions: Trusts—

No specific statutory provision, but spendthrift trust was held valid in Matter of Estate of Edgar, 425 Mich. 364, 389 N.W.2d 696 (1986)..

Insurance Proceeds—

Where agreed to in writing between the policyowner and insurer, proceeds of life insurance, endowment or annuity contracts are exempt from claims of the beneficiaries' creditors.[500.4054, Mich. Stats. Ann.]

Premiums:

Premiums paid in fraud of creditors inure to their benefit. 500.2207, Mich. Stats. Ann.]

Minnesota

Federal Election:

Allowed.

Life Insurance: Death Proceeds—

When any insurance is effected in favor of another, the beneficiary shall be entitled to its proceeds against the creditors and representatives of the person effecting the same. [§61A.12, Minn. Stats. Ann.]

All monies received by, or payable to, a surviving spouse or child from insurance on the life of the spouse or parent are exempt from attachment in an amount not exceeding \$20,000. This \$20,000 exemption is increased by \$5,000 for each dependent of the surviving spouse or child.[§550.37(10), Minn. Stats. Ann.] Such amounts are indexed for inflation. This section applies only to creditors of the beneficiary.[Pauling v. Pauling, 159 F.2d 531 (8th Cir. 1947)]

Endowment And Surrender Proceeds—

Endowment policies are held to come within §550.37. The cash value of a policy on the life of a bankrupt, and payable to a named beneficiary, is exempt from claims of creditors in the bankruptcy proceedings, even though the right to change the beneficiary has been reserved.[Ralph v. Cox, 1 F.2d 435 (8th Cir. 1924)]

A separate statute exempts the insured's aggregate interest not to exceed \$4,000 in any accrued dividends, interest or loan value of a policy owned by the debtor under which the insured is the debtor or a

person of whom the debtor is a dependent.[§550.37(23) Minn. Stats. Ann.]

Group Insurance:

No specific statutory provision.

Fraternal, Etc., Insurance:

Fraternal benefit payments are exempt from claims of creditors of the certificate holder and the beneficiary.[§64B.18 and §550.37(11), Minn. Stats. Ann.]

Disability Benefits:

The net amount payable to any insured or to any beneficiary under any policy of accident or disability insurance is exempt and free from claims of creditors of the insured or the beneficiary.[§550.39, Minn. Stats. Ann.]

Annuities:

No provision other than that relating to spendthrift trusts below. The death payment under a retirement annuity has been held not to be life insurance for purposes of the above statutes.[In re Walsh, 19 F. Supp. 567 (D. Minn. 1937)]

Spendthrift Provisions: Trusts—

The courts uphold spendthrift trusts.[First National Bank of Canby v. Olufson, 181 Minn. 289, 232 N.W. 337 (1930).

Insurance Proceeds—

Insurance or annuity proceeds held under a spendthrift trust are exempt from claims of beneficiaries' creditors where such agreement is contained in the terms of the policy. Where policies of insurance provide for payments in installments a provision may be included which prohibits the beneficiary from commuting, changing the time of payment or amount of installments, surrendering for cash, borrowing against or assigning the policy for any purpose.[§61A.04, Minn. Stats. Ann.]

Premiums:

All premiums paid for insurance in fraud of creditors, with interest thereon, shall inure to their benefit from the proceeds of the policy if the company is notified in writing before payment.[§61A.12, Minn. Stats. Ann.]

Mississippi

Federal Election:

Not allowed.[§85-3-2, Miss. Code Ann.]

Life Insurance: Death Proceeds—

The proceeds of a life policy, including cash and loan values, inure to the beneficiaries named in the policy free from liability for the insured's debts, even though the insured paid the premiums thereon. The exemption does not apply to the portion of the cash surrender value and loan values of a life policy exceeding \$50,000 as a result of premiums paid within 12 months after issuance of a writ of seizure, attachment, garnishment or filing of an involuntary or voluntary bankruptcy proceeding.[§85-3-11, Miss. Code Ann.]

Endowment And Surrender Proceeds—

The cash surrender value of a policy is exempt from claims of creditors in bankruptcy.[Dreyfus v. Barton, 98 Miss. 758, 54 So. 254] (1911)
See also "Life Insurance," above.

Group Insurance:

No specific statutory provision.

Fraternal, Etc., Insurance:

Fraternal benefit payments are exempt from the claims of creditors of the member or the beneficiary.[§83-29-39, Miss. Code Ann.]

Disability Benefits:

Income from disability insurance is exempt from garnishment or other legal process.[§85-3-1(b)(2), Miss. Code Ann.]

Annuities:

See "Insurance Proceeds" below.

Spendthrift Provisions: Trusts—

In spite of Miss. Code Ann. §89-1-43, which allows execution of a beneficiary's trust interest, spendthrift trusts are upheld. *Sligh v. First National Bank of Holmes County*, 704 So.2d 1020 (Miss. 1997) (limiting §89-1-43 to proceedings at law, noting judicial creation of spendthrift trust doctrine in Mississippi, but allowing tort creditors to reach the trust corpus, as a matter of public policy, in view of their claims' grounding in beneficiary's gross negligence)

Insurance Proceeds—

Proceeds of life insurance or annuity contracts retained by the insurer are not subject to commutation, anticipation, encumbrance, alienation or assignment by the beneficiary if such permission is expressly withheld by the terms of the contract policy, or supplementary agreement. Payments of interest or principal are exempt from claims of the beneficiary's creditors and exempt from any judicial processes of levy and attachment, if the contract so provides.[§83-7-5, Miss. Code Ann.]

Premiums:

The amount of any premiums paid with intent to defraud creditors shall inure to the benefit of such creditors. [§85-3-11, Miss. Code Ann.]

Missouri

Federal Election:

Not allowed.[§513.427 V.A.M.S.]

Life Insurance: Death Proceeds—

Proceeds of insurance payable to policyholder or beneficiary under a stipulated premium plan or assessment contract are exempt from the creditors of both the beneficiary and the policyholder.[§377.090, 377.330 V.A.M.S.]

Endowment And Surrender Proceeds—

Any unmaturing life insurance contracts, other than credit life, are exempt. There is a limit of \$150,000 in bankruptcy proceedings, less the amount required to satisfy any nonforfeiture option.[§ 513.430(7), (8) V.A.M.S.]

Group Insurance:

No specific statutory provision.

Fraternal, Etc., Insurance:

Same as for endowment and surrender proceeds.

Disability Benefits:

Exempt.[§513.430(10)(c) V.A.M.S.]

Annuities:

No statutory provision.

Spendthrift Provisions: Trusts—

Spendthrift trusts are recognized except against claims of wife or children of a beneficiary for support and maintenance.[§456.080, V.A.M.S.]

Insurance Proceeds—

No statutory provision has been found dealing with a spendthrift clause in an insurance policy.

Premiums:

No statutory provision.

Montana

Federal Election:

Not allowed.[§31-2-106, Revised Code of Mont.]

Life Insurance: Death Proceeds—

A named beneficiary or assignee, other than the policyowner, shall be entitled to the proceeds against the creditors or representatives of the insured and of the person effecting the insurance, whether or not the right to change the beneficiary is reserved and whether or not the policy is made payable to the insured if the beneficiary dies first.[§33-15-511, Revised Code of Mont.]

Endowment And Surrender Proceeds—

No statutory provision.

Group Insurance:

(1) The proceeds payable to the insured or beneficiary thereunder shall not be liable, either before or after payment, for any debts of insured or beneficiary. (2) This shall not apply to group life insurance effected for the purpose of covering a debt or obligation.[§33-15-512, Revised Code of Mont.]

Fraternal, Etc., Insurance:

Fraternal benefit payments are exempt from creditors of the member, beneficiary or any person having an interest therein.[§33-7-522, Rev. Code of Mont.]

Disability Benefits:

The proceeds of all disability insurance policies and disability benefits which are supplemental to life insurance or annuity contracts are exempt from debts of the insured or the beneficiary existing at the time the proceeds become available.[§33-15-513, Revised Code of Mont.]

Annuities:

(1) Benefits, rights, privileges and options due the annuitant shall not be subject to execution nor shall annuitant be compelled to exercise any such rights, powers or options, nor shall creditors be allowed to interfere with or terminate the contract. The total exemption of benefits, however, shall not exceed \$250 per month, and such periodic payments in excess of \$350 per month shall be subject to garnishment. If such payments exceed \$350 a court may order the annuitant to make payments to the judgment creditor. (2) The same exemption, with the same exceptions, applies to a beneficiary or assignee if the contract so provides.[§33-15-514, Rev. Code of Mont.]

Spendthrift Provisions: Trusts—

Spendthrift trusts authorized by §§72-33-301 and -302, Rev. Code of Mont.

Insurance Proceeds:

No case has been found concerning spendthrift trust provisions in life insurance policies.

Premiums:

Any premiums paid with intent to defraud creditors will inure to such creditors` benefit from proceeds of the policy.[§33-15-511, §33-15-514, Rev. Code of Mont.]

Nebraska

Federal Election:

Not allowed.[§25-15-105, Rev. Stats. Neb.]

Life Insurance: Death Proceeds—

All proceeds, cash values and other benefits accruing under any annuity contract or any policy or certificate of life insurance payable to a beneficiary other than the estate of the insured, and under any health and accident policy, are not subject to attachment, garnishment or other legal or equitable process and are exempt from claims of creditors of the insured or beneficiary, if the beneficiary is related to the insured by blood or marriage, in the absence of a written

agreement or assignment to the contrary.[§44-371, Rev. Stats. Neb.]
This does not apply to loan or cash values in excess of \$10,000. For judgments against beneficiaries rendered after January 1, 1995, it does not apply if the judgment is related to a transaction for which the beneficiary has been convicted by any court of a crime for which the only punishment is life imprisonment or death,

Endowment And Surrender Proceeds—

See above.

Group Insurance:

No specific statutory provision.

Fraternal, Etc., Insurance:

Fraternal benefits are exempt from creditors of the member or beneficiary. This does not apply to loan values in excess of \$10,000. [§44-1089, Rev. Stats. Neb.]

Disability Benefits:

No statutory provision.

Annuities:

See "Life Insurance" above.

Spendthrift Provisions: Trusts—

State courts hold spendthrift trusts valid.[Weller v. Noffsinger, 57 Neb. 455, 77 N.W. 1075 (1899)]

Insurance Proceeds—

A life insurance company may pay in installments amounts which become due to beneficiaries under a policy. If such beneficiary shall die before all installments are paid, the policy may provide to whom the remaining ones shall be paid.[§44-370, Rev. Stats. Neb.]

Premiums:

No statutory provision.

Nevada

Federal Election:

Not allowed.[§21.090(3), NRS]

Life Insurance: Death Proceeds—

Exempt from execution are all moneys or benefits in any manner growing out of any life insurance where the premiums do not exceed \$1,000 annually. If the premiums exceed this amount, the proceeds are exempt only in the proportion which \$1,000 a year bears to the annual premiums paid.[§21.090(1)(k), NRS]

Further, all proceeds payable because of the death of the insured and annuity contracts payable to a beneficiary are exempt from the claims of insured's or beneficiaries` creditors, whether or not the power to change the beneficiary is reserved and whether or not the policy is made payable to the insured if the beneficiary dies first.[§687B.260, NRS]

Endowment And Surrender Proceeds:

See "Life Insurance" above.

Group Insurance:

Proceeds of a policy of group life or group health insurance payable to individual insured or beneficiary thereof are exempt from the claims of creditors of insured or beneficiary.[§687B.280, NRS]

Fraternal, Etc., Insurance:

Benefits paid by a fraternal society are not liable to attachment or other legal process by creditors of a member or beneficiary. [§695A.220, NRS]

Disability Benefits:

Proceeds of contracts of health and disability insurance payable to the insured or the beneficiary are exempt from the claims of creditors of the insured or beneficiary.[§687B.270, NRS]

Annuities:

See "Life Insurance" above. Also, the proceeds of an annuity contract are exempt from the claims of creditors to the extent of \$350 per month, except as to amounts paid for premiums with the intent to defraud creditors a.[§687B.290, NRS]

Spendthrift Provisions: Trusts—

Nevada has a comprehensive spendthrift trust statute which prohibits and restrains the beneficiary generally from the assignment, alienation, acceleration and anticipation of any interest of the beneficiary under the trust, and such interest is free from creditor's claims.[§166.010-160, NRS]

Insurance Proceeds—

There is no statute specifically dealing with a spendthrift trust clause in an insurance policy, but see the provisions of §§ 21.090 and 166.120 above.

Premiums:

Premiums for insurance paid with the intent to defraud creditors, with interest thereon, shall inure to their benefit from the proceeds of the policy.[§687B.260, NRS]

New Hampshire

Federal Election:

Available.

Life Insurance: Death Proceeds—

If a policy of life or endowment insurance is effected by any person on his own life or on another's life, in favor of a person other than himself having an insurable interest therein, the lawful beneficiary thereof other than himself or his legal representatives is entitled to it proceeds against all creditors of the person effecting the same.[§408:2, N.H. Rev. Stats. Ann.]

Policies in which the right to change the beneficiary has been reserved are within the exemption statute.[Barbin v. Moore, 85 N.H. 362, 159 A. 409 (1932)]

Endowment And Surrender Proceeds—

See "Life Insurance" above.

Group Insurance:

No specific statutory provision.

Fraternal, Etc., Insurance:

Fraternal benefit payments are exempt from the claims of creditors of the member or the beneficiaries.[§418:24, N.H. Rev. Stats. Ann.]

Disability Benefits:

No statutory provision.

Annuities:

No statutory provision.

Spendthrift Provisions:

N.H. Rev. Stats. Ann. §564:23 recognizes spendthrift trusts, and the statute has been held effective to protect against claims of creditors in extraordinary circumstances. *Scheffel v. Krueger*, 146 N.H. 669, 782 A.2d 410 (2001) (spendthrift trust could not be invaded even by tort creditor who had been raped by beneficiary)]

Insurance Proceeds—

No case has been found dealing with a spendthrift clause in a life insurance policy.

Premiums:

Premiums paid in fraud of creditors inure to their benefit out of the proceeds.[§408:2 and §408:3, N.H. Rev. Stats. Ann.]

New Jersey

Federal Election:

Allowed.

Life Insurance: Death Proceeds—

The proceeds of any policy of life insurance effected by any person on his own life or on another's life in favor of a person other than himself, shall go to the lawful beneficiary thereof (unless the beneficiary is the insured, the person effecting the insurance, or their executors or administrators) as against the creditors and representatives of the person effecting the insurance, and against the beneficiary's creditors for debts existing when the proceeds become available.[§17B:24-6 N.J. Stats. Ann.]

Endowment And Surrender Proceeds—

A leading case decided under the predecessor to this statute held that the exemption applied to endowment policies and to cash surrender values. [*Slurzberg v. Prudential Ins. Co.*, 15 N.J. Misc. Rep. 423, 192 A. 451] The cash surrender value of a policy payable to the wife of the insured is exempt in bankruptcy proceedings, even though the right to change the beneficiary has been reserved.[*Smith v. Metropolitan Life Ins. Co.*, 43 F.2d 74 (D.N.J. 1930)] and even though premiums have been paid in fraud of creditors, [*Greiman v. Metropolitan Life Ins. Co.*, 96 F.2d 823 (3d Cir.), cert. denied, 305 U.S. 606 (1938)], though modern courts are unlikely to follow this ruling [see *In re Summers*, 85 Bankr. 121 (D. Or. 1988)].

Group Insurance:

The proceeds of a policy of group life or group health insurance payable to the individual insured or the beneficiary are not liable to pay any debt or liability of such insured or his beneficiary except in an action to recover for necessities contracted for after the beginning of the disability.[§17B:24-9, N.J. Stats. Ann.]

Fraternal, Etc., Insurance:

No statutory provision.

Disability Benefits:

Benefits paid by any stock or mutual life, health or casualty insurance company on account of the disability from injury or sickness of any insured person are exempt from the claims of creditors of the insured, except in an action to recover for necessities and except premiums paid in fraud of creditors.[§17B:24-8, N.J. Stats. Ann.]

Annuities:

The benefits due or prospectively due an annuitant under an annuity contract are exempt from the claims of creditors, except as to amounts paid with intent to defraud creditors and amounts exceeding \$500 per month.[§17B:24-7, N.J. Stats. Ann.]

Spendthrift Provisions: Trusts—

Income from a trust up to \$48 per week is exempt from the claims of creditors, but a court may order a portion of income over this amount be paid by the debtor to his creditors.[§2A:17-50, 51, N.J. Stats. Ann.]

Insurance Proceeds:

Any life insurer shall have the power to hold under agreement the proceeds of any policy issued by it, upon such terms and restrictions as to revocation by the policyholder and control by beneficiaries, and with such exemptions from the claims of creditors of beneficiaries other than the policyholder as set forth in the policy or as agreed to in writing by the insurer and the policyholder. Upon maturity of a policy, in the event the policyholder has made no such agreement, the insurer shall have the power to hold the proceeds of the policy under an agreement with the beneficiaries.[§17B:24-10, N.J. Stats. Ann.]

Premiums:

The amount of any premiums for insurance and any annuity payments paid with intent to defraud creditors, with interest thereon, shall inure to their benefit from the proceeds of the policy.[§§17B:24-6 and 17B:24-7, N.J. Stats. Ann.]

New Mexico

Federal Election:

Allowed.

Life Insurance: Death Proceeds—

The proceeds of any life insurance shall not be subject to the debts of the insured, except by special contract in writing.[§42-10-3, N. Mex. Stats. Ann.]

Endowment And Surrender Proceeds—

The cash surrender value of any life insurance policy and the withdrawal value of any optional settlement or annuity contract or deposit with any life company, and any installment benefits from any life, accident or health policy or annuity contract issued upon the life of a citizen or resident of New Mexico, are exempt from (1) creditors of the person whose life is insured, and (2) creditors of any person protected by the contract or to receive any benefit from it, whether or not the right to change the beneficiary is reserved, unless the contract is taken out, made or assigned in writing for the benefit of the creditor. [§42-10-3, N. Mex. Stats. Ann.]

Group Insurance:

No specific statutory provision.

Fraternal, Etc., Insurance:

Payments of a fraternal benefit society are exempt from creditors of the member, the beneficiary and any other person having a right thereunder.[§59A-44-18, N. Mex. Stats. Ann.]

Disability Benefits:

See "Endowment and Surrender Proceeds" above.

Annuities:

See "Endowment and Surrender Proceeds" above.

Spendthrift Provisions: Trusts—

Exempt from attachment. [§42-9-4 N.Mex. Stats. Ann.]

Insurance Proceeds—

Proceeds held under a settlement option are exempt.[§42-10-3, N.

Mex. Stats. Ann.]

Premiums:

No statutory provision.

New York

Federal Election:

Not allowed.[N.Y. Debt. & Cred. Law §284]

Life Insurance: Death Proceeds—

The proceeds of life insurance policies are exempt from the claims of (1) Creditors of the insured, where the insured makes the policy payable to some other person as a beneficiary either in the original beneficiary designation or by a change of beneficiary, assignment of the policy, or otherwise; (2) Creditors of the insured, where a person takes out insurance on the life of some other party in favor of himself as either the original beneficiary or later by assignment or change of beneficiary; and where a spouse takes out insurance on the life of his or her spouse. The proceeds are also exempt from the creditors of the spouse who takes out the insurance; (3) Creditors of both the insured and the person effecting the insurance, where one person takes out a policy on the life of another and makes a third party the beneficiary either in the original designation or by later assignment, change of beneficiary, or otherwise.

The exemption applies not only to claims of creditors in the literal sense of the word, but includes the claims of personal representatives, trustees in bankruptcy, and receivers in state and federal courts.

Proceeds include death benefits, cash surrender values and loan values, premiums waived, and dividends (except where the debtor has, after issuance of the policy, elected to receive dividends in cash).

The exemption applies whether or not the right to change the beneficiary has been reserved and whether or not the policy is payable to the insured if the beneficiary, assignee, or payee dies first.

A policy is considered payable to a beneficiary entitled to the exemption if a facility-of-payment clause or similar clause permits the company to discharge its obligations by making payments to an exempt beneficiary.[Insurance Law § 3212(b)]

Assignments, changes of beneficiary, and other transfers are valid unless made with actual intent to defraud creditors.[Insurance Law, §3212(e)(1).]

Endowment And Surrender Proceeds—

See "Life Insurance" above.

Group Insurance:

The exemptions set out under "Life Insurance" above apply also to group insurance and group annuity contracts. [insurance Law § 3212(f)]

Fraternal, Etc., Insurance:

Policies of fraternal benefit societies, and the contracts of co-operative life and accident insurance companies, are entitled to the benefit of the exemptions set out under "Life Insurance" above. [Insurance Law § 3212(f)]

Disability Benefits:

Disability benefits are exempt from all debts of the insured, except (1) in an action for necessities furnished after the commencement of the disability, and (2) with respect to all other debts incurred since the commencement of disability the exemption shall not be in excess of \$400 per month. Where the payment is in a lump sum for dismemberment or other specific loss, the lump sum payment shall be entirely exempt. [Insurance Law §3212(c)]

Annuities:

Benefits due under an annuity contract, where the annuitant paid the consideration for the contract, are exempt from execution; except that such benefits may be subjected to creditors in an amount, if any, deemed proper by the court, with due regard to the reasonable requirements of the judgment debtor and his family, if dependent upon him. [Insurance Law §3212(d)] In a bankruptcy proceeding, the exemption is limited to \$5,000 for contracts that were purchased within six months of the filing of a petition for bankruptcy and were not purchased with the proceeds of an earlier annuity contract.[Debt. & Cred. Law §283]

Spendthrift Provisions: Trusts—

The right of a beneficiary of an express trust to receive the income from property and apply it to the use of or pay it to any person may not be transferred by assignment or otherwise, unless a power to transfer such right is conferred upon such beneficiary by the instrument creating the trust.[Estates, Powers and Trusts Law, §7-1.5(a)(1)] The beneficiary of such a trust may, unless prohibited by the instrument creating the trust, transfer any amount in excess of an annual income of \$10,000 from the trust to his spouse, issue, ancestors, brothers, sisters, uncles, aunts, nephews or nieces, and certain fiduciaries of the property of a minor. The instrument must be made in writing and without consideration.

Insurance Proceeds—

The proceeds of a life insurance policy which, under a trust or other agreement, are upon the death of the insured left with the insurance company may not be (A) transferred, (B) subject to commutation or encumbrance or (C) subject to legal process except in an action for necessities, if provisions to such effect were incorporated in such trust or other agreement.[EPTL, §7-1.5(a)(2)]

Premiums:

Premiums paid in fraud of creditors, with interest, are subject to their claims.[Insurance Law, §3212(e)(2)(A)]

North Carolina

Federal Election:

Not allowed.[§1C-1601(f) N.C. Gen. Stat.]

Life Insurance: Death Proceeds—

The North Carolina Constitution.[Art. 10, §5] provides that a person may insure his or her own life for the sole use and benefit of his or her spouse and children, and in case of the death of the insured the amount thus insured is paid over to the spouse and children, or to the guardian, free from all claims of creditors. And the policy is not subject to claims of the insured's creditors during his or her life if the insurance issued is for the sole use and benefit of the spouse and/or children, whether or not the policy is made payable to the insured in the event of the beneficiary's predecease and even though the insured reserves the right to change beneficiary.

The proceeds of insurance effected by any person on his own life or on another's life, in favor of a person other than himself, go to the lawful beneficiary thereof, other than the person effecting the insurance or his legal representatives, free from claims of creditors of the insured and the person effecting such insurance, whether or not the policy is made payable to the insured in the event of the beneficiary's predecease and even though the insured reserves the right to change beneficiary. [§58-58-115, N.C. Gen. Stats.]

Endowment And Surrender Proceeds—

The word "proceeds" when used in life insurance exemption statutes includes the protection of cash surrender values and other values built up during the life of the policies. [Home Security Life Insurance Co. v. McDonald, 277 N.C. 275, 177 S.E.2d 291 (1970)]

Group Insurance:

Proceeds of group insurance are exempt from claims of creditors of the insured-employee and of the beneficiary.[§58-165, N.C. Gen. Stats.]

Fraternal, Etc., Insurance:

Fraternal benefit payments are exempt from creditors of the members and their beneficiaries.[§58-24-85, N.C. Gen. Stats.]

Disability Benefits:

No specific provision.

Annuities:

No statutory provision.

Spendthrift Provisions: Trusts—

Section 36A-115(a), N.C.Gen. Stats. provides that “all estates or interests of trust beneficiaries are alienable either voluntarily or involuntarily to the same extent as are legal estates or interests of a similar nature” with three exceptions explained in subsection (b). In particular, §115(b)(3) defines a protective trust as “A trust wherein the creating instrument provides that the interest of the beneficiary shall cease if (a) the beneficiary alienates or attempts to alienate that interest; (b) any creditor attempts to reach the beneficiary’s interest by attachment, levy, or otherwise; or (c) the beneficiary becomes insolvent or bankrupt.” Thus, although North Carolina does not recognize spendthrift trusts, it gives effect to trusts that offer the beneficiary similar protections.

Insurance Proceeds—

No case has been found dealing with spendthrift trust provisions in insurance policies.

Premiums:

Premiums paid in fraud of creditors, with interest, inure to their benefit. [§58-115, N.C. Gen. Stats.]

North Dakota

Federal Election:

Not allowed.[§28-22-17, N.D. Cent. Code]

Life Insurance: Death Proceeds—

Pensions, annuity policies or plans, and life insurance policies that upon the death of the insured, would be payable to dependent relatives and have been in effect for at least one year are exempt up to \$100,000 for each policy and an aggregate of \$200,000 in accrued dividends, interest or cash value.[§28-22-03.1(3) N.D. Cent. Code]

Endowment And Surrender Proceeds—

The surrender value of any policy of life insurance payable on the insured's death to his wife, children or dependent relative, is exempt from the claims of the insured's creditors [§26.1-33-36, N.D. Cent. Code] up to \$100,000 for each policy and an aggregate of \$200,000 in accrued dividends, interest or cash value.[§28-22-03.1(3) N.D. Cent. Code]

Group Insurance:

No specific statutory provision.

Fraternal, Etc., Insurance:

Fraternal benefit society payments are exempt from claims of creditors of the member, the beneficiary or any other person having thereto. [§26.1-15-32, N.D. Cent. Code]The proceeds of a life policy or of a contract payable by any mutual aid or benevolent society, payable to the personal representative of the insured, his heirs or estate, upon his death, shall not be subject to his debts except by special contract, but shall be inventoried and distributed to the heirs or legatees.[§26.1-33-40, N.D. Cent. Code].

Disability Benefits:

No statutory provision.

Annuities:

See "Life Insurance" above.

Spendthrift Provisions: Trusts—

Where the trust contains no direction for the accumulation of surplus, the rents and profits beyond the sum necessary for education and support of the beneficiary are not exempt from claims of the beneficiary's creditors. The beneficiary of a trust for the receipt of rents and profits of real property, or for the payment of an annuity out of such rents and profits, may be restrained from disposing of his interest for his lifetime or for the period of years created by the trust.[§59-03-10 and §59-03-18, N.D. Cent. Code]

Insurance Proceeds—

A trustee may be designated as beneficiary, payee, or owner of a life insurance policy by a will, with benefits or rights payable or transferable to the trustee upon admission of the will to probate. Such death benefits shall be payable to the trustee and held by him according to the terms of the testamentary trust created by will. Payments of such benefits shall not be included in the estate, nor subject to the claims of creditors.[§26.1-33-42, N.D. Cent. Code]

Premiums:

No statutory provision.

Ohio

Federal Election:

Not allowed.[Ohio Code §2329.662]

Life Insurance: Death Proceeds—

All contracts of life or endowment insurance or annuities upon the life of any person or any interest therein, which are payable to, or for the benefit of, the spouse, children, dependent relative or creditor of the insured, are held, subject to a change of beneficiary if desired, free from all claims of the creditors of such insured person or annuitant. [Ohio Code §3911.10]

Further, a married person may, individually and in such person's own name, or in the name of a third person with assent as the third person's trustee, cause the life of the person's spouse to be insured for such person's sole use, for any definite period or for the term of such spouse's life, and, if any person obtaining such insurance survives such period or term, the insurance is payable to such person free from the claims of the representatives and creditors of such spouse.[Ohio Code, §3911.11] And a policy of insurance on the life of any person, or any interest therein, assigned, transferred or made payable to a married person or to any person, firm or corporation in trust for such married person (or for the benefit thereof), whether made by the spouse of such married person or another, shall inure to the benefit of such married person independently of the spouse of such married person or the spouse's creditors, or the person effecting or transferring the policy, or his or her creditors.[Ohio Code, §3911.12]

Endowment And Surrender Proceeds—

See "Life Insurance" above.

Group Insurance:

Proceeds are exempt from the claims of creditors of the member or his beneficiary.[Ohio Code, § 3917.05 and §2329.66(A)(6)(c),]

Fraternal, Etc., Insurance:

Fraternal benefit society payments are exempt from creditors of the beneficiary and the member. Funds of a benevolent association, to the amount of \$5,000, payable to the family of a deceased member are exempt from his debts.[Ohio Code, §3921.18]

Disability Benefits:

Disability benefits of sickness and accident policies not exceeding \$600 per month are exempt from claims of the insured's creditors, except in an action to recover for necessities contracted for during the period of disability. Lump sum payments because of a dismemberment or other loss are exempt from the insured's creditors.[Ohio Code, §3923.19]

Annuities:

See "Life Insurance" above.

Spendthrift Provisions: Trusts—

Explicitly upheld in *Scott v. Bank One Trust Company*, 62 Ohio St. 3d 39, 577 N.E.2d 1077 (1991), overruling *Sherrow v. Brookover*, 174 Ohio St. 310, 189 N.E.2d 90 (1963).

Insurance Proceeds:

A statute specifically relating to insurance provides that proceeds or payments under life, endowment or annuity contracts held in trust by the insurer shall possess such exemptions from creditors of beneficiaries other than the insured as are agreed upon by the insurer and the insured or beneficiary.[Ohio Code, §3911.14]

Premiums:

The amount of any premiums paid in fraud of creditors, with interest, inures to the benefit of the creditors from the proceeds.[Ohio Code, §3911.10]

Oklahoma

Federal Election:

Not allowed.[Title, 31 §1, Okla. Stats. Ann.]

Life Insurance: Death Proceeds—

The proceeds of a policy of insurance effected by any person go to the named beneficiary free from claims of creditors of the person effecting

the insurance. The right to change the beneficiary does not defeat the exemption.[Title 36, §3631.1, Okla. Stats. Ann.]

Endowment And Surrender Proceeds—

Where wife of bankrupt was beneficiary of life endowment policy of bankrupt and both spouses had filed petition in bankruptcy, cash surrender value of policy was exempt from husband's estate and not vested property interest or asset of bankrupt wife.[In re Privett, 435 F.2d 261 (10th Cir. 1970)]

Group Insurance:

A policy of group insurance either before or after payment and whether it be payable to the insured or to a beneficiary, is exempt from the creditors of the insured and beneficiary. Where there is a facility-of-payment clause, the proceeds do not become a part of the insured's estate.[Title 36, §3632, Okla. Stats. Ann.]

Fraternal, Etc., Insurance:

Fraternal benefit association payments are exempt from claims of creditors of the member and the beneficiary, and mutual benefit or assessment insurance payments are exempt from attachment.[Title 36, §2718.1, Okla. Stats. Ann.]

Disability Benefits:

No statutory provision.

Employee Benefits And Pensions:

An employee benefit plan may provide against alienation or encumbrances of interests therein and that such interests shall not be subject to garnishment, attachment or other creditors' claims.[Title 60, §327, Okla. Stats. Ann.]

Annuities:

Oklahoma's insurance exemption statute, 36 O.S. §3631.1, exempts proceeds of, among other things, any "plan or program of annuities" from attachment, but neither statute nor case law makes clear what "plan or program" encompasses. In *University Hospitals v. Annesley*, 1999 Okla. Civ. App. 30, 976 P.2d 1105 (1999), the court held that an annuity in settlement of a personal injury claim was subject to the specific exemption (but only to \$50,000) for personal injury proceeds contained in 31 O.S. §1(A)(21) rather than to §3631.1. Thus, whether Oklahoma offers anything more than incidental protection of annuities, as discussed in [Section 19.5, Section A](#) of this Service, remains unclear.

Spendthrift Provisions: Trusts—

Oklahoma recognizes spendthrift trusts, but the trust income will be available to satisfy claims for support of a spouse or child or for necessities of the beneficiary. Furthermore, annual trust income in excess of \$5,000 is fully alienable and subject to garnishment.[Title 60, §175.25, Okla. Stats. Ann.]

Insurance Proceeds—

No statutory provision.

Premiums:

Premiums paid in fraud of creditors inure to those creditors, together with interest, out of proceeds.[Title 36, §3631.1, Okla. Stats. Ann.]

Oregon

Federal Election:

Not allowed.[ORS §23.305]

Life Insurance: Death Proceeds—

The proceeds of a policy of insurance effected by any person on his own life or on another's life, in favor of some person other than himself, go to the named beneficiary free from the claims of creditors of the person effecting the same, whether or not the right to change the beneficiary is reserved.[ORS §743.046]

Endowment And Surrender Proceeds—

The cash surrender value of a life insurance policy payable to a beneficiary other than the estate of the insured is exempt from the claims of creditors.[ORS §743.046]

Group Insurance:

Proceeds of group insurance are exempt from the claims of creditors unless such proceeds are paid to the estate.[ORS §743.047]

Fraternal, Etc., Insurance:

By statute, payments of a fraternal benefit society are exempt from creditors of both the member and the beneficiary.[ORS §748.207]

Disability Benefits:

Proceeds of all health insurance policies are exempt from the claims of

creditors of both the insured and beneficiary.[ORS §743.050]

Annuities:

Benefits payable under annuity contracts are exempt from the claims of creditors up to \$500 a month.[ORS §743.049]

Spendthrift Provisions: Trusts—

Oregon has no general statute, but spendthrift trusts are upheld. [Mattison v. Mattison, 53 Or. 254, 100 P.4 (1909)]

Insurance Proceeds:

Any domestic life insurance company has the power to hold proceeds of life insurance in trust upon terms agreed upon between company and policyholder, provided that the forms of such trust agreements are first submitted to and approved by the Commissioner of Insurance of Oregon.[ORS §732.240] Presumably, spendthrift trust clauses in other policies would be recognized.

Premiums:

Premiums paid on life insurance policies and annuities in fraud of creditors inure to their benefit out of the proceeds.[ORS §§743.046 and .049(1)(a)]

Pennsylvania

Federal Election:

Allowed. [Title 42, §8121(a), Purdon's Statutes]

Life Insurance: Death Proceeds—

The proceeds of life insurance or annuity contracts payable to or for the benefit of the insured's spouse, children or any relative dependent upon the insured, are exempt from claims of the insured's creditors, whether or not the right to change the beneficiary is retained.[Title 42, §8124(c)(6), Purdon's Statutes]

The predecessor statute was held to exempt the cash values in bankruptcy proceedings, though the right to change the beneficiary has been reserved.[In re Lang, 20 F.2d 239]

Endowment And Surrender Proceeds—

See "Life Insurance" above.

Group Insurance:

Proceeds of group insurance, even if paid to the estate, are exempt from claims of creditors of both the member and the beneficiary.[Title 42 §8124(c)(5), Purdon's Statutes] insured's

Fraternal, Etc., Insurance:

No statutory provision.

Disability Benefits:

Accident and disability payments are exempt from the claims of creditors of both the insured and the beneficiary.[Title 42, §8124(c)(7), Purdon's Statutes]

Annuities:

Any contract of insurance or annuity issued to any solvent citizen of the state by a company (domestic or foreign) admitted to do business in the state where the insured or annuitant is payee shall be exempt from claims of his own creditors, to the extent payments to him do not exceed \$100 a month.[Title 42, §8124(c)(3), Purdon's Statutes]

Spendthrift Provisions: Trusts—

The statutes recognize spendthrift trusts but make the income therefore liable for support of anyone the beneficiary has a duty to support. [Title 20, §6112, Purdon's Statutes]

Insurance Proceeds—

Proceeds of insurance or annuity contracts held by the insurer in trust may, by agreement, be made exempt from creditors of the beneficiary. [Title 42, §8124(c)(4), Purdon's Statutes] .

Premiums:

No statutory provision.

Puerto Rico

Federal Election:

Allowed.

Life Insurance: Death Proceeds—

The proceeds of a life insurance policy other than an annuity contract shall go to the named beneficiary or assignee free from claims of insured's or policyowner's creditors. Such proceeds also pass to the beneficiary free from claims of his or her creditors (except for debts

contracted after the proceeds become payable).[26 L.P.R.A. §1133.]

Endowment And Surrender Proceeds—

No statutory provision.

Group Insurance:

The proceeds of group insurance are exempt from the claims of the insured's or beneficiary's creditors.[26 L.P.R.A. §1134]

Fraternal, Etc., Insurance:

Exempt.[26 L.P.R.A. §3618]

Disability Benefits:

Disability insurance payments up to \$200 per month are exempt from liability for insured's debts and for debts of the beneficiary existing when the proceeds are made available for his use, except in an action for necessities. This exception and the \$200 limitation do not apply to lump sum payments for dismemberment. [26 L.P.R.A. §1132]

Annuities:

An individual's creditors cannot reach the first \$250 a month payable to him under annuity contracts. If an individual receives more than \$250 a month from annuity contracts, a court may order him to pay his creditors the "portion of such excess benefits as to the court may appear just and proper, after due regard for the reasonable requirements of the judgment debtor and his family, if dependent upon him." The creditors cannot force surrender of the contract.[26 L.P.R.A. §1135]

Spendthrift Provisions: Trusts—

No statutory provision.

Insurance Proceeds—

If an annuity contract so provides, the benefits accruing to the beneficiary shall not be transferable or subject to commutation. [26 L.P.R.A. 1135(c)(3)]

Premiums:

Where a court finds that a debtor has paid premiums on an annuity in fraud of creditors the creditors can recover the amount of such premiums, with interest.[26 L.P.R.A. §1135]

Rhode Island

Federal Elections:

Allowed.

Life Insurance: Death Proceeds—

The proceeds of a policy of insurance effected by any person on his own life or another's life, in favor of a person other than himself, shall go to the named beneficiary as against the creditors and representatives of the insured and of the person effecting the insurance, whether or not the right to change the beneficiary is reserved, and whether or not the policy reverts to the insured.[§27-4-11, Gen. Laws of R.I.]

Endowment And Surrender Proceeds—

See "Insurance Proceeds" below.

Group Insurance:

No specific statutory provision.

Fraternal, Etc., Insurance:

Payments of a fraternal benefit society are exempt from claims of creditors of the member, beneficiary, or any other person having a right thereunder.[§27-25-18, Gen. Laws of R.I.]

Disability Benefits:

The proceeds and benefits to be paid by virtue of any policy of accident and sickness insurance are exempt from debts of the owner, insured, beneficiary or any person having a right thereunder.[§27-18-24, Gen. Laws of R.I.]

Annuities:

See "insurance Proceeds" below.

Spendthrift Provisions: Trusts—

Spendthrift trusts are valid. [§18-9-1.1, Gen. Laws of R.I.]

Insurance Proceeds—

Any policy of life or endowment insurance or any annuity contract may provide that the proceeds or payments thereunder shall not be subject to transfer, anticipation, commutation or encumbrance by any

beneficiary, nor subject to claims of the beneficiary's creditors.[§27-4-12, Gen. Laws of R.I.]

Premiums:

Premiums paid in fraud of creditors, with interest, inure to the benefit of those creditors.[§§27-4-11 and 27-18-24, Gen. Laws of R.I.]

South Carolina

Federal Election:

Not allowed.[§15-41-35, S.C. Code]

Life Insurance: Death Proceeds—

Insurance proceeds payable for the benefit of a beneficiary other than the insured's estate pass free of his creditors and the creditors of his estate.[§38-63-40(A), S.C. Code]

Endowment And Surrender Proceeds—

Exempt from claims of creditors. See "Life Insurance," above. [§38-63-40(A), S.C. Code]

Group Insurance:

Proceeds from group insurance are exempt from claims of creditors. [§38-63-40(C), S.C. Code]

Fraternal, Etc., Insurance:

Payments of fraternal benefit societies are exempt from creditors of both the beneficiary and the insured.[§38-38-330, S.C. Code]

Disability Benefits:

Exempt.[§§ 38-63-40(D) and 15-41-30(10)(C), S.C. Code]

Annuities:

Proceeds of life insurance or annuity contracts, by agreement, may be held by the insurer exempt from the claims of creditors.[§38-63-40(B), S.C. Code]

Spendthrift Provisions: Trusts—

Spendthrift trust clauses in life insurance settlement agreements are valid. The beneficiary of such proceeds can neither assign nor encumber them, and they are not subject to legal process (except in

an action to recover for necessities).[§38-65-100 S.C. Code]

Insurance Proceeds—

See "Annuities," above.

Premiums:

Premiums paid with intent to defraud creditors and interest thereon inure to their benefit.[§38-63-40]

South Dakota

Federal Election:

Not allowed.[§43-45-13, S.D. Code]

Life Insurance: Death Proceeds—

Proceeds payable to the insured's estate not in excess of \$10,000 inure to the benefit of the surviving spouse or minor children and such proceeds are exempt from the creditors of any of them.[§43-45-6, S.D. Code]

Proceeds of life or health policies, not in excess of \$20,000 payable to the insured, his spouse or children are exempt from the creditors of any of them. Also included are the proceeds of any endowment policy payable to the insured on reaching a certain age, and the proceeds of any life or health insurance policy or other sum of money not in excess of \$20,000, made payable by any mutual aid or benevolent society to any member or beneficiary spouse or children.[§58-12-4, S.D. Code]

Endowment And Surrender Proceeds—

See "Life Insurance" above. Under a prior section, similar to §58-12-4, it was held that the cash values of life insurance were "proceeds" within the meaning of the statute and were exempt from creditors' claims in bankruptcy.[Magnuson v. Wagner, 1 F.2d 99 (8th Cir. 1924); Schuler v. Johnson, 61 S.D. 141, 246 N.W. 632 (1933)]

Group Insurance:

No specific statutory provision.

Fraternal, Etc., Insurance:

No statutory provision.

Disability Benefits:

See "Life Insurance" above.

Annuities:

Benefits not in excess of \$250 a month from all annuity contracts are exempt from the claims of creditors of the annuitant. Amounts paid for or as premium on the annuity with intent to defraud creditors, plus interest, inure to the creditors.[§ 58-12-6, 58-12-7, 58-12-8, and 58-12-9, S.D. Code]

Spendthrift Provisions: Trusts—

The income from a trust of lands is exempt from creditors' claims only to the extent necessary for education and support. Further, the beneficiary may be restrained from disposing of his interest, where the trust was created for the payment of the income or an annuity out of the rents and profits of the trust.[§ 43-10-13 and 43-10-12, S.D. Code]

Insurance Proceeds:—

If an annuity contract so provides benefits, rights, etc., accruing under such contract to a beneficiary shall not be transferable nor subject to commutation and are exempt from execution by creditors under the same terms as those listed under "Annuities" above.[§58-12-10, S.D. Code]

Premiums:

See "Annuities" above. [§ 58-12-7, S.D. Code]

Tennessee

Federal Election:

Not allowed.[§26-2-112 Tenn. Code Ann.]

Life Insurance: Death Proceeds—

Life insurance on the life of one spouse inures to the benefit of the surviving spouse or children free from the claims of creditors, unless it is payable to the decedent's estate as ordinary cash and the will specifically provides otherwise. Under one section this is true also of both insurance and annuity contracts for the benefit of a wife, child, or dependent relative, whether or not the right to change the beneficiary is reserved.[§ 56-7-201, 56-7-202, 56-7-203, Tenn. Code Ann.]

Endowment And Surrender Proceeds—

The cash surrender value is exempt. [In re Olien, 256 Bankr. 280]

(E.D. Tenn. 2000)]

Group Insurance:

No specific statutory provision.

Fraternal, Etc., Insurance:

Payments of a fraternal benefit society are exempt from claims of the creditors of the member, the beneficiary or any other person having a right thereunder.[§56-25-1403, Tenn. Code Ann.]

Disability Benefits:

Any sum or sums of money payable under the terms of any contracts of accident, health or disability insurance insuring the assured against loss by accidental personal injuries, or insuring assured against loss by reason of physical disability resulting from disease, are exempt from claims of all creditors. Any sum or sums payable at the time of the death of a person so insured are likewise exempt. [§26-2-110, Tenn. Code Ann.]

Annuities:

See "Life Insurance" above. [§ 56-7-203, Tenn. Code Ann.]

Spendthrift Provisions: Trusts—

A beneficiary's right to receive income from an express trust may not be transferred by assignment or otherwise unless the trust instrument expressly so provides, to the amount necessary to produce an annual income of \$10,000. [§35-50-113, Tenn. Code Ann.]

Insurance Proceeds—

The proceeds of a life insurance policy left with the insurance company upon the death of the insured may not be subject to legal process except in an action for necessities, if the instrument so provides. [§35-50-113(2)(C), Tenn. Code Ann.]

Premiums:

No statutory provision.

Texas

Federal Election:

Allowed.

Life Insurance: Death Proceeds—

No money or benefits of any kind to be paid or rendered on a weekly, monthly or other periodic or installment basis to the insured or any beneficiary under any policy of insurance issued by a life, health or accident insurance company, including mutual and fraternal insurance, or under any plan or program of annuities and benefits in use by any employer, is liable to execution, etc., to pay any debt of the insured or of any beneficiary except for premiums payable on such policy or a debt of the insured secured by a pledge thereof.[Art. 21.22, Ins. Code, Vernon's Texas Stats. Ann.]

Endowment And Surrender Proceeds—

No statutory provision.

Group Insurance:

See "Life Insurance" above.

Fraternal, Etc., Insurance:

See "Life Insurance" above; and also Ins. Code §885.316, which specifically exempts payments of a fraternal benefit society from creditors of the member and the beneficiary.

Disability Benefits:

See "Life Insurance" above.

Annuities:

Exempt. [Art. 21.22, §6, Ins. Code] See "Life Insurance" above and "Insurance Proceeds" below.

Spendthrift Provisions: Trusts—

Expressly recognized by statute. A settlor may provide in the terms of a trust that the interest of a beneficiary in the income or in the principal or in both may not be voluntarily or involuntarily transferred before payment or delivery of the interest to the beneficiary by the trustee. A declaration in a trust instrument that the interest of a beneficiary shall be held subject to a "spendthrift trust" is sufficient to restrain voluntary or involuntary alienation of the interest by a beneficiary to the maximum extent permitted by this subtitle [Texas Property Code, Title 9, §112.035 (a) and (b)].

Insurance Proceeds—

A policy of insurance, or plan or program of annuities in use by an employer, may contain a provision against assignment or commutation

by any beneficiary thereunder. Any assignment or commutation in violation of such a provision is wholly void.[Art. 21.22, §5, Ins. Code] But see "Life Insurance" above, last sentence.

Premiums:

Exemptions do not apply to premiums paid in fraud of creditors or to a debt of insured secured by the policy[Texas Property Code §21.22]

Utah

Federal Election:

Not allowed [§78-23-15 Utah Code Ann.].

Life Insurance: Death Proceeds—

Proceeds payable to a spouse or dependent of the insured are exempt to the extent reasonably necessary for support [§78-23-6(2), Utah Code].

Endowment And Surrender Proceeds—

Accrued dividends and loan values not exceeding \$5,000 for all contracts are exempt §78-23-7, Utah Code].

Group Insurance:

No specific statutory provision.

Fraternal, Etc., Insurance:

Payments of fraternal benefit societies are exempt from the claims of creditors of the member and the beneficiary [§31A-9-603, Utah Code Ann.].

Disability Benefits:

Exempt [§78-23-5(1)(a)(3) Utah Code].

Annuities:

Exempt to the extent reasonably necessary for support. [§78-23-6(3), Utah Code]

Spendthrift Provisions: Trusts—

Matter of Estate of Grimm, 784 P.2d 1238 (Utah App. 1989), cert. denied, 795 P.2d 1138 (Utah 1990), implicitly recognizes the validity of spendthrift trusts (in holding that a family settlement agreement

modified one)

Insurance Proceeds—

No statutory provision.

Premiums:

No statutory provision.

Vermont

Federal Election:

Allowed.

Life Insurance: Death Proceeds—

The proceeds of life insurance effected by any person on his own life or on another's life, in a favor of a person other than himself, shall go to the named beneficiary as against the creditors and representatives of the insured or the person effecting the insurance, whether or not the right to change the beneficiary has been reserved, and whether or not the policy is payable to the insured if the beneficiary dies first [Title 8:3706, Vt. Stats. Ann.].

Endowment And Surrender Proceeds—

No statutory provision.

Group Insurance:

Proceeds from group insurance are exempt from claims of creditors, unless such insurance was issued in their favor [Title 8:3708, Vt. Stats. Ann.].

Fraternal, Etc., Insurance:

Proceeds of such insurance are exempt from the debts of members or beneficiaries [Title 8:4478, Vt. Stats. Ann.].

Disability Benefits:

These benefits are exempt from the debts of the insured or beneficiary [Title 8:3707, Vt. Stats. Ann.].

Annuities:

Benefits not in excess of \$350 per month from all annuity contracts are exempt from the claims of creditors of the annuitant [Title 8:3709, Vt. Stats. Ann.].

Stats. Ann.].

Spendthrift Provisions: Trusts—

Spendthrift trust provisions are allowed in annuity or life insurance policies. [Title 8:3704, 3705, Vt. Stats. Ann.]

Insurance Proceeds—

See “Spendthrift Provisions,” above. Proceeds held by insurance companies under such provisions are exempt from the beneficiary’s creditors.

Premiums:

Premiums paid for life insurance or annuity policies with intent to defraud creditors inure to their benefit out of the proceeds [Title 8:3706, Title 8:3709, Vt. Stats. Ann.].

Virginia

Federal Election:

Not allowed [§34-3.1 Code of Va.].

Life Insurance: Death Proceeds—

Where a policy of insurance is effected by any person on his own life or on the life of another, in favor of a person other than himself, or, except in cases of transfer to defraud creditors, if a life policy is assigned or in any way made payable to such person, the beneficiary or assignee, other than the insured or the person so effecting the insurance, is entitled to the proceeds and avails thereof as against the creditors and representatives of the insured or the person effecting the insurance. This is true whether or not the right to change the beneficiary has been reserved, and whether or not the policy is made payable to the insured if the beneficiary dies first [§38.2-3122, Code of Va.].

Endowment And Surrender Proceeds:

If the right to change the beneficiary is reserved, and the cash surrender or loan value is claimed by creditors, the insurance is not entitled to the statutory exemption. [§38.2-3123, Code of Va.].

Group Insurance:

Group insurance policies and proceeds are exempt from creditors of the insured and of the beneficiary [§38.2-3339, Code of Va.].

Fraternal, Etc., Insurance:

Payments of fraternal benefit associations and benefits of co-operative non-profit life benefit companies are exempt from creditors of the member and the beneficiary [§38.-4118, Code of Va.].

Disability Benefits:

Disability payments under a life insurance policy have been held to come within the exemption set forth in §38.2-3406 for accident and sickness benefits [Atlantic Life Ins. Co. v. Ring, 167 Va. 121, 187 S.E. 449 (1936)].

Annuities:

No statutory provision.

Spendthrift Provisions: Trusts—

A general statute provides that property may be held in trust for support and maintenance of beneficiaries free from existing claims of the beneficiaries` creditors, but such trusts shall not operate to prejudice of claims of any creditors of creator of the trust [§55-19, Code of Va.].

Insurance Proceeds—

The proceeds of a life insurance policy may be held in trust by the insurer at maturity, and the contract between the insurer and insured may exempt payments from creditors of the beneficiary, but this does not apply to that portion of the proceeds that is represented by premiums paid by the beneficiary. In any case, the exemption allowed by this section shall not exceed that allowed by §55-19 [§§38.2-3118–3120, Code of Va.].

Premiums:

Premiums paid in fraud of creditors inure to their benefit out of the proceeds [§38.2-3122, Code of Va.].

Washington

Federal Election:

Allowed.

Life Insurance: Death Proceeds—

The proceeds of life insurance effected by any person on his own life, or on another's life, in favor of a person other than himself, are exempt

from claims of creditors of the insured and of the person effecting the insurance, and such proceeds are also exempt from all liability for any debt of the beneficiary existing at the time the proceeds are made available for his use. And this is true whether or not the right to change the beneficiary is reserved, and whether or not the policy is made payable to the insured or his estate in the event the beneficiary predeceases the insured [§48.18.410, Rev. Code of Wash.].

Endowment And Surrender Proceeds—

"Proceeds" includes cash surrender value. The right of insured to request and receive cash surrender value of insurance policy is not asset or property right available to the insured's creditors in bankruptcy proceeding; for until insured exercises this purely personal right, there is no debt due him from the insurer [In re Elliott, 74 Wash. 2d 600, 446 P.2d 347 (1968)].

Group Insurance:

Group insurance proceeds (with certain exceptions as to debtor groups contained in §48.24.040) are exempt, whether payable to the insured or to a beneficiary, from all debts of any person having a right under the policy [§48.36A.180, Rev. Code of Wash.].

Fraternal, Etc., Insurance:

Payments of fraternal benefit societies are exempt from claims of creditors of the member and of the beneficiary [§48.36A.180, Rev. Code of Wash.].

Disability Benefits:

The proceeds of disability insurance contracts, or of such contracts which are made supplemental to life insurance policies or annuity contracts, are exempt from any liability for a debt of the insured, and any debt of the beneficiary existing at the time the proceeds are made available for his use [§48.18.400, Rev. Code of Wash.].

Annuities:

Annuity contract benefits, due to the annuitant who paid the consideration for the annuity contract, are exempt from execution, except: (1) Premiums paid in fraud of creditors inure to the benefit of those creditors; (2) The total exemption of annuity payments shall not exceed \$250 per month, with the excess being subject to garnishment to same extent as wages and salaries; (3) If the benefits total more than \$250 per month, the court may order payment to the judgment creditor of such portion of the excess as the court may think proper. The benefits accruing under such contract to a beneficiary shall not be transferable nor subject to commutation, and if the benefits are payable periodically or at stated times, the same exemptions and exceptions contained herein for the annuitant, shall apply with respect

to such beneficiary [§48.18.430, Rev. Code of Wash.].

Spendthrift Provisions: Trusts—

A general statute exempts property held in trust from claims of trust beneficiary, other than for necessities or for support of children under 18, unless beneficiary is creator of the trust [§§6.32.250, Rev. Code of Wash.].

Insurance Proceeds—

There is no statute specifically dealing with a spendthrift trust clause in a life insurance policy, and no cases have been found, but presumably such a clause would be upheld. Benefits under annuity contracts are not transferable or subject to commutation. [§48.18.430(2), Rev. Code of Wash.]

Premiums:

Life insurance premiums paid in fraud of creditors inure with interest to those creditors out of the proceeds [§48.18.410, Rev. Code of Wash.]. See also "Annuities" above.

West Virginia

Federal Election:

Not allowed [§38-10-4 W. Va. Code].

Life Insurance: Death Proceeds—

The proceeds of a policy of insurance effected by any person on his own life or on another's life, in favor of a person other than himself, go to the named beneficiary as against the creditors and representatives of the insured and of the person effecting the insurance, whether or not the right to change the beneficiary is reserved, and whether or not the policy reverts to the insured if the beneficiary dies first [§33-6-27, W. Va. Code].

Endowment And Surrender Proceeds—

Unmatured contracts are exempt in bankruptcy proceedings. Up to \$8,000 in accrued dividends, interest, and loan values are exempt [§38-10-4, W. Va. Code].

Group Insurance:

Proceeds are exempt from the claims of the creditors of the insured or the beneficiary [§33-6-28, W. Va. Code].

Fraternal, Etc., Insurance:

Payments of a fraternal benefit society are exempt from claims of creditors of both the member and the beneficiary [§33-23-21, W. Va. Code].

Disability Benefits:

Exempt in bankruptcy proceedings. [§38-10-4, W. Va. Code].

Annuities:

No statutory provision. In *Clark v. Wilbur*, 913 F. Supp. 463 (S.D.W. Va. 1996), *aff'd*, 139 F.3d 888 (4th Cir. 1998), the court agreed with the judgment creditor's contention that "it is by no means certain" that the life insurance exemption of §33-6-27 applies to annuities.

Spendthrift Provisions: Trusts—

A general statute provides that a trust for support and maintenance of the beneficiary is exempt from claims of the beneficiary's creditors, if the trust instrument so provides [§36-1-18, W. Va. Code].

Insurance Proceeds—

Although there is no statute dealing with a spendthrift trust clause in a life insurance policy, and no cases have been found, presumably such a clause would be upheld.

Premiums:

Premiums paid with intent to defraud creditors, together with interest, inure to the creditors out of the proceeds [§33-6-27, W. Va. Code].

Wisconsin

Federal Election:

Allowed.

Life Insurance: Death Proceeds—

A payment to a debtor under a life insurance contract that insured the life of an individual of whom the debtor was a dependent on the date of that individual's death is exempt to the extent reasonably necessary for the support of the debtor and the debtor's dependents. [§815.18(3)(i)(a), West's Wis. Stats. Ann.].

Endowment And Surrender Proceeds—

the loan value of unmaturing life insurance contracts is exempt to the amount of \$4000. [§815.18(3)(f) West's Wis. Stats. Ann.].

Group Insurance:

No specific statutory provision.

Fraternal, Etc., Insurance:

Exempt up to \$5,000 if insured paid any part of premiums; absolutely exempt if person other than insured paid all premiums [§614.86 West's Wis. Stats. Ann.].

Disability Benefits:

No statutory provision.

Annuities:

No statutory provision.

Spendthrift Provisions:

A trust may be set up so as not to be subject to alienation by the beneficiary. But after payments or principal have become due to the beneficiary, the judgment creditor may apply to court for order directing trustee to satisfy judgments out of such payments [§701.06, West's Wis. Stats. Ann.].

Insurance Proceeds—

Proceeds of insurance or an annuity contract may be held in trust by the insurer subject to such exemptions from creditors of the beneficiary as are agreed to between the insurer and the policyholder [§632.42, West's Wis. Stats. Ann.].

Premiums:

No statutory provision.

Wyoming

Federal Election:

Not allowed [§1-20-109 Wyo. Stats.].

Life Insurance: Death Proceeds—

The proceeds of a policy of insurance effected by a person on his own life or on another's life, in favor of some person other than himself, go

to the lawful beneficiary free from claims of creditors of the person effecting the insurance. A reservation of the right to change the beneficiary makes no values payable under the policy, either before or after the insured's death, available to the creditors [§26-15-129, Wyo. Stats.].

Endowment And Surrender Proceeds—

Cash surrender values go to the beneficiary free from claims of creditors of the person effecting the insurance. [§26-15-129, Wyo. Stats.]

Group Insurance:

Group insurance payable to the insured or a beneficiary is not liable to be applied for any debt of the insured or beneficiary and is not part of the estate of the insured for the payment of debts [§26-15-131, Wyo. Stats.].

Fraternal, Etc., Insurance:

Fraternal benefit society payments are exempt from claims of creditors of both the member and the beneficiary [§§26-29-218, Wyo. Stats.].

Disability Benefits:

Proceeds of all contracts of disability insurance are exempt from all liability for any debt of the insured or beneficiary [§26-15-130, Wyo. Stats.].

Annuities:

Annuity contracts are not subject to the claims of creditors, except for amounts paid in fraud of creditors, which inure to their benefit, with interest, out of the proceeds. Proceeds are exempt up to \$350 per month. A court may order an annuitant to pay a creditor any excess of \$350 per month it considers just and proper. By contract, annuity benefits, rights and privileges can be made non-assignable or non-transferable by the beneficiary [§26-15-132, Wyo. Stats.].

Spendthrift Provisions:

There is no general statute, and no cases have been found dealing with spendthrift trusts.

Insurance Proceeds—

A life insurance company may hold the proceeds of insurance, endowment or annuity contracts with such exemptions from the claims of creditors of beneficiaries other than the insured as have been agreed to by the company and the insured. Proceeds may also be

held free from any legal process against such a beneficiary [§26-15-133, Wyo. Stats.].

Premiums:

Premiums paid in fraud of creditors, with interest, inure to their benefit out of the proceeds [§26.15-129, Wyo. Stats.].

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