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## COMMENTS

### THE RIGHTS OF INSURED TO REINSTATEMENT UNDER LIFE, HEALTH AND ACCIDENT INSURANCE POLICIES

The field of insurance law provides our courts with one of the most fertile fields of litigation today. As insurance contracts have developed and spread out to cover nearly all phases of our personal, as well as our business lives, more and more disagreements between the insured and his insurer have naturally arisen. The broader and more complex is the policy, the greater are the chances for disagreement, conflicting interpretations, and subsequent litigation.

One of the most common disagreements arises as to the rights of an insured to have his insurance policy reinstated, after he has allowed it to lapse for non-payment of premiums.

It is a well-known principle of insurance law that a contract of insurance should be construed liberally in favor of the insured or his beneficiary, and strictly against the insurer, since the insurer was the party who chose the language of the policy. If any part of the contract is so drawn that there is ambiguity or uncertainty which requires interpretation, a construction which favors the insured or his beneficiary will be adopted, if it is consistent with the objects of the policy.<sup>1</sup> Of course, where the language of the policy is clear and unambiguous, the above principle does not come into operation.<sup>2</sup> The application for reinstatement, being on a form prepared by the insurer, must likewise be construed liberally in favor of the insured.<sup>3</sup>

Ordinarily, after forfeiture or lapse of a life insurance policy for non-payment of premiums, whether or not an insured is entitled to reinstatement of the policy must be governed by the terms of the policy and the application for reinstatement. In the absence of a compliance with a provision for reinstatement in the original contract of insurance, and in the absence of a waiver or estoppel on the part of the insurer as to the default, the only way to revive or to continue an insurance policy is by an entirely new contract.<sup>4</sup> To this end, there must be a meeting of the minds of the parties, valid consideration, ap-

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1. *Stout v. Washington Fire and Marine Ins. Co.*, 385 P.2d 608, (Utah 1963); *Densmore v. Hartford Acc. and Indem. Co.*, 221 F. Supp. 652, (D.C. Pa. 1963).

2. *Prudential Ins. Co. of America v. Cline*, 371 S.W.2d 158, (Tenn. App. 1963).

3. *Bankers' Life Co. v. Hollister*, 33 F.2d 72, (9th Cir. 1929).

4. *Kirby v. Prudential Ins. Co. of America*, 239 Mo. App. 476, 191 S.W.2d 379, (1945).

5. 3 APPLEMAN ON INSURANCE LAW AND PRACTICE, § 1971.

plication and acceptance, and full knowledge of the circumstances under which the application is made and the money paid.<sup>5</sup> Under this rule, the parties have the right to fix the terms of such reinstatement.<sup>6</sup>

On the other hand, an entirely different situation arises where the insured has complied with the policy terms and provisions. The Illinois case of *People ex rel Tolley v. Illinois Bankers Life Assur. Co. of Monmouth*<sup>7</sup> exemplifies most of the more recent decisions, in holding that if the contract does not make reinstatement optional with the company, a compliance with the conditions imposed by the terms of the contract and of the rules and by-laws of the company gives the insured the absolute right to reinstatement. It has also been held that an insured's right to reinstatement upon compliance with the policy provisions is considered to be a substantial property right,<sup>8</sup> and a contractual provision which the insurer has no power to change.<sup>9</sup>

A few cases have, however, enforced policy provisions which made such reinstatement entirely optional with the insurer.<sup>10</sup> However, what appears at first glance to be an obvious conflict of authority is found to be, upon closer scrutiny, concerned with a situation distinguishable in an equally obvious manner. In all cases holding that reinstatement of a lapsed insurance policy is not effective until insurer has received and passed upon the application, or may be made at the option or within the discretion of the insurer, a close examination will reveal that such a stipulation is contained in the provisions of the policy *itself*, and not merely in the application for reinstatement. Thus, the insured, when he entered into the contract, was bound to know its contents; and the insurer has not violated the general rule against changing the contract provisions. The necessary implication of the case law in this field, therefore, is that the contract provisions are the controlling factors, so long as they are not in contravention of public policy or state statute.

However, there is a small minority whose holdings are absolutely irreconcilable with the general rule of the insured's absolute right to reinstatement. It has been held that the insured, having made a written application for reinstatement, could not thereafter be heard to say that he did not consent to the terms of the application.<sup>11</sup> Nor could

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6. *Foley v. New York World Life Ins. Co.*, 185 Wash. 89, 52 P.2d 1264, (1936).

7. 283 Ill. App. 6 (1935).

8. *Rocky Mount Savings and Trust Co. v. Aetna Life Ins. Co.*, 201 N.C. 552, 160 S.E. 831 (1931).

9. *New York Life Ins. Co. v. Campbell*, 192 Ark. 54, 83 S.W.2d 542, (1935).

10. *Interstate Life and Accident Ins. Co. v. Reid*, 56 Ga. App. 144, 192 S.E. 245, (1937); *Capital City Ben. Soc. v. Travers*, 4 F.2d 290, 55 App. D.C. 214 (1925).

11. *Struhl v. Travelers Ins. Co.*, 7 N.Y.S.2d 881, (App. Div. 1938).

he complain because the insurer's offer to issue a new policy after termination of the old one following default was not the same as an offer on which the original contract was based, since he may either accept or reject such offer.<sup>12</sup> And a Missouri court has even held that an application for reinstatement is the only right which the insured or beneficiary possesses after lapse of a life policy for non-payment of premiums.<sup>13</sup>

Where discretionary powers as to the sufficiency of compliance with the requirements for reinstatement are given to the insurer, it has generally been held that the insurer may not act arbitrarily in determining whether the insured has complied with the conditions imposed by the contract.<sup>14</sup> Insurer is bound to consider such application on its merits,<sup>15</sup> and to pass fairly upon such application.<sup>16</sup> The insurer may not act capriciously nor on the basis of mere whim or fancy.<sup>17</sup>

The standard provision in insurance policies authorizes reinstatement of a lapsed policy on furnishing of satisfactory evidence of insurability and payment of arrears of premiums, together with interests thereon. In addition, most policies provide that the insured must file an application for reinstatement, such reinstatement being conditioned upon the insurer's approval of the application. In *Illinois Bankers' Life Ass'n. of Monmouth, Ill. v. Palmer*,<sup>18</sup> it was held that a clause of this nature did not confer arbitrary or discretionary power on the insurer's officials to refuse reinstatement where the insured has complied with the provision. A reasonable compliance is sufficient.<sup>19</sup>

Georgia alone seems to hold that such a clause confers this discretionary power on the insurer. In *Interstate Life and Accident Co. v. Reid*,<sup>20</sup> it was held that where reinstatement was conditioned upon the insurer's approval of the application for revival, the insurer had the option to reinstate the policy or not, in its discretion, with or without good reason, and had no legal obligation to reinstate upon payment of arrears and evidence of insurability.

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12. *Greenberg v. Continental Cas. Co.*, 24 Cal. App. 2d 506, 75 P.2d 644, (1938).

13. *New York Life Ins. Co. v. Silverstein*, 53 F.2d 986, (8th Cir. 1932).

14. *Gressler v. New York Life Ins. Co.*, 108 Utah 182, 163 P.2d 324, (1945).

15. *Lane v. New York Life Ins. Co.*, 147 S.C. 333, 145 S.E. 196, (1928).

16. *Haselden v. Standard Mut. Life Ass'n.*, 190 S.C. 1, 1 S.E.2d 924, (1939).

17. *Sunset Life Ins. Co. of America v. Crosby*, 380 P.2d 9, (Idaho 1963).

18. 176 Okla. 514, 56 P.2d 370, (1936).

19. *Supra*, note 15.

20. 56 Ga. App. 144, 192 S.E. 245, (1937). See also, *Exchange Trust Co. v. Capitol Life Ins. Co. of Colorado*, 40 F.2d 687, (10th Cir. 1930); *Capital City Ben. Soc. v. Travers*, 4 F.2d 290, (D.C. 1925).

Where the right of reinstatement is made subject to certain conditions, it is the insurer's duty to pass upon the application with reasonable promptness and diligence under the circumstances.<sup>21</sup> This is true in spite of the fact that no time for such approval has been set forth in the contract—the courts implying a reasonable time.<sup>22</sup> On the issue of unreasonable delay by the insurer in approving an application for reinstatement, it is proper to introduce evidence tending to show the propriety of the insurer's actions.<sup>23</sup> The doctrines of both waiver and estoppel are used in this regard, the courts having held that the insurer's delay waives the forfeiture,<sup>24</sup> or estops the insurer from denying that the policy was revived.<sup>25</sup> And the insurer has been held liable to notify the insured within a reasonable time even if his application for reinstatement is rejected.<sup>26</sup>

Again, Georgia seems to be the only jurisdiction holding that such negligent delay will not render the insurer liable,<sup>27</sup> although a few decisions have reached apparently the same result. Those cases are distinguishable in that the insurer actually had an insufficient time in which to pass upon the application for reinstatement, e.g., where the insurer received the application for reinstatement only two days before the insured's death.<sup>28</sup>

The insurer may avoid the effect of a reinstatement obtained by fraud, or by false warranties or material false statements in the application for reinstatement.<sup>29</sup> Thus, false or fraudulent statements as to the health of the insured, as to whether or not he had consulted a physician, as to other applications for insurance and policies issued thereon, and as to personal injury suffered may be grounds for avoidance. The insured is bound by the false representations of a third party who acts in obtaining the reinstatement,<sup>30</sup> regardless of whether or not such third party

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21. *Froehler v. North American Life Ins. Co. of Chicago*, 374 Ill. 17, (1940) 27 N.E.2d 833.

22. *Supra*, note 8.

23. *Hogue v. Supreme Liberty Life Ins. Co.*, 59 Ohio App. 409, 18 N.E.2d 503 (1939).

24. *Supra*, note 8.

25. *Rome Industrial Ins. Co. v. Eidson*, 142 Ga. 253, 82 S.E. 641, (1914).

26. *Life and Casualty Co. of Tennessee v. Street*, 213 Ala. 588, 105 So. 672, (1925); *Kinney v. John Hancock Mut. Life Ins. Co.*, 109 N.Y.S.2d 128, (App. Div. 1952).

27. *Supra*, note 10.

28. *Exchange Trust Co. v. Capitol Life Ins. Co.*, 49 F.2d 133, (10th Cir. 1931).

29. *Pavia v. State Mutual Life Assur. Co. of Worchester*, 179 Pa. 272, 116 A.2d 762, (1955).

30. *Mullin v. John Hancock Mutual Life Ins. Co.*, 28 A.2d 456, 150 Pa. Super. 323 (1942).

acted with the authority of the insured.<sup>31</sup> However, it has been held that the insured is not bound by the misstatements in an application filed by a third person without his knowledge, where no application was necessary at all.<sup>32</sup> The right of an insurer to avoid a reinstatement for fraud or false statements is operative as against the beneficiary of the policy,<sup>33</sup> or an assignee of the policy who has knowledge of the facts involved.<sup>34</sup>

If a statement is a warranty in the absence of a statutory or contractual provision to the contrary, the question of knowledge, good faith, or intent does not arise, and the falsity of the statement in any material particular will avoid the revival.<sup>35</sup> Likewise, in the absence of a statute to the contrary, the right to reinstatement may be conditioned upon the truth of the statements in the application.<sup>36</sup> As a general rule, a reinstatement obtained by willful misrepresentations as to material matters may be avoided,<sup>37</sup> but a false statement as to an immaterial matter does not vitiate the reinstatement.<sup>38</sup> In some jurisdictions, good faith of the insured will not preclude avoidance if the reinstated policy is procured by false and material misrepresentations.<sup>39</sup> On the other hand, in other jurisdictions, good faith and substantial truth may be all that is required, and a false statement in the application will not vitiate the policy unless it is fraudulent or material, or unless it is willfully false or made with the intent to deceive.<sup>40</sup>

To facilitate this discussion, a look at the Virginia Statute is desirable. By Code of Va. (1950), sec. 38.1-357, it is provided that “. . . the falsity of any statement in the application for any policy covered by this article may not bar the right to recovery thereunder unless such false statement materially affected either the acceptance of the risk or the hazard assumed by the insurer.” And in Code of Va. (1950), sec. 38.1-393, dealing specifically with life insurance policies, it is further provided that “. . . all statements made by the insured shall, in the absence of fraud, be deemed representations and not warranties, and

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31. *Fraser v. Aetna Life Ins. Co.*, 114 Wis. 510, 90 N.W. 476, (1902).

32. *Turner v. Redwood Mut. Life Ass'n. of Fresno*, 13 Cal. App. 2d 573, 57 P.2d 222 (1936).

33. *Baxter v. New York Life Ins. Co.*, 115 Pa. 287, 175 A.899, (1934).

34. *Reingold v. New York Life Ins. Co.*, 85 F.2d 776 (9th Cir. 1936).

35. *Aetna Life Ins. Co. v. Rehlaender*, 68 Neb. 284, 94 N.W. 129, (1903).

36. *Shurdut v. John Hancock Mut. Life Ins. Co.*, 320 Mass. 728, 71 N.E.2d 391, (1947).

37. *Smith v. National Life and Accident Ins. Co.*, 66 Ga. App. 1, 16 S.E.2d 763, (1941).

38. *Harris v. New York Life Ins. Co.*, 27 Del. 170, 33 A.2d 154, (1943).

39. *Sommer v. Guardian Life Ins. Co. of America*, 281 N.Y. 508, 24 N.E.2d 308, (1939).

40. *Shaw v. Imperial Mut. Life and Benefit Ass'n.*, 4 Cal. App. 2d 534, (1935).

that no such statement or statements shall be used in defense of a claim under the policy unless contained in a written application and unless a copy of such statement or statements be endorsed upon or attached to the policy when issued.”

Such statutes are common in most jurisdictions, and have been held to be applicable to applications for reinstatement as well as to the original application for insurance.

Generally speaking, the insured is allowed a great deal of latitude in his statements to the insurer concerning his continued insurability. It has been held that the falsity of a statement bearing on the health of the insured will not avoid the policy where it appears that the statement was qualified as being true to the best of the applicant's knowledge and belief,<sup>41</sup> or that the statements were not necessarily to be taken as literally true.<sup>42</sup> Ordinarily, a statement in the application as to the health of the insured is not a warranty of absolute good health or freedom from any body ailment, but is construed as meaning only that the state of health is essentially the same as when the policy was issued;<sup>43</sup> and the terms “sound” or “good” health have been construed to mean that the insured is free from any disease or illness of which he is conscious, that tends seriously or permanently to weaken or impair his constitution.<sup>44</sup> There have, however, been decisions holding to a stricter interpretation of the insured's statements.

The fact that the company's agent has participated in the preparation of an application for reinstatement does not relieve the insured from responsibility for material false statements contained therein.<sup>45</sup> The failure of the insured to read his application for reinstatement does not preclude the operation of this rule,<sup>46</sup> most courts holding that the insured, by his conduct, had made the agent his own agent for that purpose.<sup>47</sup> However, it has been held that, in the absence of fraud on the part of the insured, the insurer cannot avoid the reinstatement because of false answers to questions inserted in the application by its agent, where the correct information had been given to him by the insured.<sup>48</sup>

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41. *Stanyan v. Security Life Ins. Co.*, 91 Vt. 83, 99 A. 417, (1917).

42. *National Life and Acc. Ins. Co. v. Vaughan*, 32 So.2d 490, (La. 1963).

43. *Interstate Life and Acc. Co. v. Frazier*, 40 Ga. App. 811, 151 S.E. 529, (1930).

44. *Greenwood v. Royal Neighbors of America*, 118 Va. 329, 87 S.E. 581, (1916).

45. *Supra*, note 29.

46. *Chambers v. Metropolitan Life Ins. Co.*, 235 Mo. App. 884, 138 S.W.2d 29, (1940).

47. *Axelroad v. Metropolitan Life Ins. Co.*, 267 N.Y. 437, 196 N.E. 388, (1935).

48. *Security Ben. Ass'n v. Farmer*, 193 Ark. 370, 99 S.W.2d 580, (1936).

In some situations, an insurance company may be regarded as having waived fraud or misstatements in securing a reinstatement, or as being estopped to deny reinstatement by accepting premiums. In order for this to arise, the general rule is that knowledge of the invalidating facts is essential,<sup>49</sup> and the acceptance of the premiums must be unconditional.<sup>50</sup>

Thus, by undue delay in acting on an application for reinstatement,<sup>51</sup> by failure to communicate to the insured the rejection of his application for reinstatement,<sup>52</sup> by sending notice of a subsequently accruing premium,<sup>53</sup> or by accepting and retaining an overdue premium,<sup>54</sup> the insurer may be estopped to deny that the policy has been reinstated. On the other hand, no estoppel or waiver can be implied from a mere delay for a reasonable time in acting on the application for reinstatement,<sup>55</sup> or from conditional acceptance of a part payment of the premium due.<sup>56</sup> And, by failing to insist on a strict compliance with a provision of the policy as to evidence of insurability, the insurer does not preclude itself from requiring such compliance on a subsequent occasion.<sup>57</sup>

Most states provide for these contingencies by statute. Sec. 38.1-349 of the Code of Va. (1950) provides, in part, that each insurance policy issued for delivery to any person in this State shall contain the following provision:

If any renewal premium be not paid within the time granted the insured for payment, a subsequent acceptance of premium by the insurer or by any agent duly authorized by the insurer to accept such premium, without requiring in connection therewith an application for reinstatement, shall reinstate the policy; provided, however, that if the insurer or such agent requires an application for reinstatement and issues a conditional receipt for the premium tendered, the policy will be reinstated upon approval of such application by the insurer or, lacking such approval, upon the forty-fifth day following the date of such conditional receipt unless the insurer has previously notified the insured in writing of its disapproval of such application.

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49. *Kear v. Prudential Ins. Co. of America*, 144 N.Y.S.2d 373, 208 Misc. 645 (1955).

50. *Bogosian v. New York Life Ins. Co.*, 315 Mass. 375, 53 N.E.2d 217, (1944).

51. *National Life and Acc. Ins. Co. v. McGeehee*, 234 Ala. 482, 191 So. 884, (1939).

52. *Lechler v. Montana Life Ins. Co.*, 48 N.D. 644, 186 N.W. 271, (1921).

53. *Denver Life Ins. Co. v. Crane*, 19 Colo. App. 191, 73 P. 875, (1903).

54. *Equitable Life Assur. Soc. of U.S. v. Pettid*, 40 Ariz. 239, 11 P.2d 833, (1932).

55. *Union Life Ins. Co. v. Bolin*, 201 Ark. 555, 145 S.W.2d 734, (1940).

56. *Lucero v. American Nat. Ins. Co.*, 385 P.2d 255, (Colo. 1963).

57. *Washington Nat. Ins. Co. v. Simmons*, 201 Ark. 734, 147 S.W.2d 3, (1941).



As is readily apparent, the insurer may be bound by the acts of its agent with respect to waiver or estoppel as to conditions for reinstatement. This is true in some jurisdictions, even where the policy contains an express limitation on the power of agents in this respect.<sup>58</sup> Notwithstanding such limitations, the insurer may by its acts extend the authority of its agents.<sup>59</sup>

Where a contract of insurance has been allowed to lapse, and has been subsequently reinstated, the question logically arises as to whether the new policy is itself a new contract, or a revival of the old one. There is a conflict of authority on this point.

A few courts have held that a new contract of insurance is thereby created, containing new warranties, new conditions, etc., just as if no prior policy had existed.<sup>60</sup> This is particularly true where reinstatement is discretionary with the company.<sup>61</sup>

But this is definitely a minority holding. The overwhelming majority of courts hold that the old contract is thereby reinstated and revived, and the new policy is merely a continuation of the old coverage. The decision in *Lanier v. New York Life Ins. Co.*<sup>62</sup> is typical of the majority rule, where it was stated:

But we think the better rule and the one that would come nearer doing justice is to regard the contract for reinstatement, not as a new contract of insurance, but as a waiver of the forfeiture, thus restoring the policy and making it as effective as if no forfeiture had occurred, but reserving the right of the company to avoid the effect of the reinstatement by showing, if it can, that the reinstatement was induced by unfair and fraudulent means.

As Appleman states,<sup>63</sup> this is, of course, the only logical result. Usually the same document evidences the new protection. The premium rate remains the same, instead of increasing to the age at which the insurance is reinstated, as would necessarily be the case were it actually a new contract. Neither do the terms and conditions of the policy change, so that a provision of the original policy for nonliability

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58. *Madsen v. Prudential Ins. Co.*, 185 S.W. 1168, (Mo. 1916); *But see*, *Spiegel v. Metropolitan Life Ins. Co.*, 188 N.Y.S.2d 486, 160 N.E.2d 40, (1959).

59. *Lechler v. Montana Life Ins. Co.*, *supra*, note 52.

60. *Siegel v. Continental Cas. Co.*, 27 Ill. App. 290, 169 N.E.2d 587, (1960).

61. *MacDonald v. Metropolitan Life Ins. Co.*, 304 Pa. 213, 155 A. 491, (1931).

62. 88 F.2d 196, (5th Cir. 1937).

63. *Supra*, note 5.

in the event of the insured's suicide within a specified period from the date of issuance of the policy is not revived.<sup>64</sup>

Under this rule, it has been stated that reinstatement wipes out the default as though it had never occurred, therefore reinstating the policy in full from the date of default.<sup>65</sup> But at this point it is easy to go to extremes. It is plain to see that, under this interpretation, those who suffer injury or loss during the period of default are going to attempt to have their policies reinstated if such injury or loss is covered; and those who have not suffered injury or loss will probably make no special effort for reinstatement. Therefore, if the insurance company is exposed to reinstatement by all of the bad risks, and does not secure reinstatement of the good risks, it is facing a situation which can materially affect its loss ratios.

It must be recognized that some courts have allowed such reinstatement to operate retroactively and to cover losses during the period of default. However, the better rule, and the majority one, permits such reinstatement to act only prospectively, and not retroactively.<sup>66</sup>

In deciding upon this question, some courts have looked to the terms of the policy to determine the effect of reinstatement.<sup>67</sup> Other jurisdictions, however, have covered this situation by statute. Sec. 38.1-149 of the Code of Va. (1950), in providing for required policy provisions, states that, ". . . The reinstated policy shall cover only loss resulting from such accidental injury as may be sustained after the date of reinstatement and loss due to such sickness as may begin more than ten days after such date."

A nice question arises where the insured applies for reinstatement, and then dies before the application is received by the insurer, or insurer approves the application without knowledge of the insured's death. It has been held that the approval or acceptance by the insurer of an application given without knowledge of the fact that the insured had died intermediate the signing of the application and such approval is ineffective.<sup>68</sup> Where the policy provides that reinstatement shall not take effect unless at the date thereof the insured is living, or that the company's approval is essential to a reinstatement, there can be no re-

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64. *Life and Casualty Ins. Co. of Tennessee v. McCray*, 187 Ark. 49, 58 S.W.2d 199, (1933).

65. *Supra*, note 62.

66. *Gedeon v. State Farm Mut. Ins. Co.*, 42 Wash. Co. 100, (Pa. C. P. 1963).

67. *State Farm Mut. Auto Ins. Co. v. Moore*, 104 Ga. App. 194, 121 S.E.2d 286, (1962).

68. *Manning v. American Bankers Ins. Co.*, 330 S.W. 2nd 921, (Tex. Civ. App. 1959).

instatement if the insured dies before his application is received or approved.<sup>69</sup>

On the other hand, where the insured has complied with the required conditions, his death before the application for reinstatement is approved or accepted by the company,<sup>70</sup> or before it is even received by the home office,<sup>71</sup> does not permit the company to avoid liability. Of course, the insurer may reject the application after the death of the insured, if it would have been justified in rejecting the application or requiring further proof at the time it was executed.<sup>72</sup> This is in line with the general rule previously stated, that any conditions, to be given effect, must be imposed by the policy itself.

Where the insured has a right to reinstatement acquired by virtue of the original contract or some other agreement, a court of equity will generally relieve him from the effects of a forfeiture of a policy.<sup>73</sup> The insured is not obliged to bring an action to compel a reinstatement to which he is entitled; instead, he may recover damages as for a breach of contract.<sup>74</sup> The general rules of evidence, pleading and proof, and trial procedure apply to actions for reinstatement,<sup>75</sup> or to recover damages for wrongful forfeiture.<sup>76</sup> The time within which the action may be brought is generally covered by statute.

A contract of reinstatement has been held to be a contract of the state where the policy was delivered, and subject to the law thereof.<sup>77</sup>

However, it has also been held to be governed by the law of the place where the necessary payments were made,<sup>78</sup> and by the place of its own execution.<sup>79</sup> Therefore, a statute of the forum, where the suit is brought in another state, has no application.<sup>80</sup>

In the last few years, there has been a marked trend toward more and more State intervention into private insurance contracts between the insurer and the insured. Such intervention is legally justified by the

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69. *Independent Life and Acc. Ins. Co. v. Pantone*, 80 Ga. App. 426, 56 S.E.2d 153, (1949).

70. *Gressler v. New York Life Ins. Co.*, 108 Utah 182, 163 P.2d 324, (1945).

71. *Prudential Ins. Co. v. Union Trust Co.* 56 Ind. App. 418, 105 N.E. 505, (1914).

72. *Kennedy v. Occidental Life Ins. Co.*, 18 Cal. 2d 627, 117 P.2d 3, (1941).

73. *Bradbury v. Mutual Reserve Fund Life Ass'n.*, 31 A.775, (N.J. 1895).

74. *Belser v. Mutual Life Ins. Co. of New York*, 77 F. Supp. 826, (4th Cir. 1948).

75. *Mutual Life Ins. Co. of New York v. Heilbronner*, 116 F.2d 855, (8th Cir. 1941).

76. *Supra*, note 70.

77. *Chambers v. Metropolitan Life Ins. Co.*, 235 Mo. App. 884, 138 S.W.2d 29, (1940).

78. *Harris v. New York Life Ins. Co.*, 33 A.2d 154, (Del. 1943).

79. *Wastun v. Lincoln Nat. Life Ins. Co.*, 12 F.2d 422, (8th Cir. 1926).

80. *Columbia Nat. Life Ins. Co. v. Industrial Trust Co.*, 57 R.I. 325, (1937).

right of a State to impose certain conditions in return for the privilege of doing business within its boundaries, and has its origin in the desires of every State government to jealously protect the rights of its inhabitants through the use of the ever-present, ever-meaningful shield of public policy. It would seem that the plight of the *Yale Law Journal*<sup>81</sup> in 1931, that "there is a great need for the courts to recognize the position of guardianship occupied by the insurer in society, and to endow the insurer with a responsibility for efficient action far greater than is required of the corner grocer," has been met, in part, at least, by State legislation on the subject.

*N. Woodrow Pusey*

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81. 40 YALE LAW JOURNAL 127 (1930-31).