S T A T E O F N E W Y O R K

6672

I N S E N A T E

February 26, 2014

Introduced by Sen. KLEIN -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to establishing a public awareness program on the availability of long term health care insurance and the tax credits therefor, and accelerating payment of death benefits or a special surrender value pursuant to a life insurance policy upon receipt of end of life or palliative care

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The insurance law is amended by adding a new section 342 to read as follows:

S 342. PUBLIC AWARENESS TO FINANCE LONG TERM CARE. THE DEPARTMENT, DEPARTMENT OF HEALTH, OFFICE FOR THE AGING AND DEPARTMENT OF TAXATION AND FINANCE MAY JOINTLY ESTABLISH AND CONDUCT A PUBLIC AWARENESS PROGRAM ON THE AVAILABILITY AND COVERAGE PROVIDED BY LIFE INSURANCE AND HEALTH INSURANCE PLANS FOR LONG TERM CARE, AND THE PROVISIONS OF VARIOUS TAX CREDITS THEREFOR.

S 2. Paragraph 1 of subsection (a) of section 1113 of the insurance law, as amended by chapter 563 of the laws of 2010, is amended to read as follows:

(1) "Life Insurance," means every insurance upon the lives of human beings, and every insurance appertaining thereto, including the granting of endowment benefits, additional benefits in the event of death by accident, additional benefits to safeguard the contract from lapse, accelerated payments of part or all of the death benefit or a special surrender value upon (A) diagnosis of terminal illness defined as a life expectancy of twelve months or less, (B) diagnosis of a medical condition requiring extraordinary medical care or treatment regardless of life expectancy, (C) certification by a licensed health care practitioner of any condition which requires continuous care for the remainder of the insured's life in an eligible facility or at home when the insured is chronically ill as defined by Section 7702(B) of the Internal Revenue Code and regulations thereunder, provided the accelerated payments qualify under Section 101(g)(3) of the Internal Revenue Code and all other

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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applicable sections of federal law in order to maintain favorable tax treatment, (D) certification by a licensed health care practitioner that the insured is chronically ill as defined by Section 7702 (B) of the Internal Revenue Code and regulations thereunder, provided the accelerated payments qualify under Section 101(g)(3) of the Internal Revenue Code and all other applicable sections of federal law in order to maintain favorable tax treatment and the insurer that issues such policy is a qualified long term care insurance carrier under Section 4980c of the Internal Revenue Code or provide a special surrender value, upon total and permanent disability of the insured, and optional modes of settlement of proceeds, [or] (E) the insured's having been a resident of a nursing home, as defined in section twenty-eight hundred one of the public health law, for a period of three months or more, with an expectation that such insured will remain a resident of a nursing home until death, OR (F) THE INSURED'S HAVING BEEN THE RECIPIENT, FOR A PERIOD OF THREE MONTHS OR MORE, OF LONG TERM HOME HEALTH CARE, HOSPICE OR ADULT DAY CARE SERVICES, OR OTHER SERVICES, WHICH PROVIDE END OF LIFE OR PALLIATIVE CARE TO THE INSURED, WITH THE EXPECTATION THAT SUCH INSURED WILL CONTINUE TO REQUIRE SUCH SERVICES UNTIL DEATH. "Life insurance" also includes additional benefits to safeguard the contract against lapse in the event of unemployment of the insured or in the event the insured is a resident of a nursing home. Amounts paid the insurer for life insurance and proceeds applied under optional modes of settlement or under dividend options may be allocated by the insurer to one or more separate accounts pursuant to section four thousand two hundred forty of this chapter.

S 3. Subparagraph (A) of paragraph 11 of subsection (c) of section 3201 of the insurance law, as amended by chapter 563 of the laws of 2010, is amended to read as follows:

(A) The superintendent shall not approve a life insurance policy which provides for accelerated payment of death benefits or special surrender values pursuant to subparagraph (B), (C), (D) [or], (E) OR (F) of paragraph one of subsection (a) of section one thousand one hundred thirteen of this chapter unless it also provides for such accelerated payments or special surrender values pursuant to subparagraph (A) of paragraph one of subsection (a) of such section.

S 4. Subsection (f) of section 3230 of the insurance law, as amended by chapter 563 of the laws of 2010, is amended to read as follows:

(f) This section shall apply to all life insurance policies or policy riders or provisions thereof that provide for accelerated payment of death benefits or a special surrender value pursuant to subparagraph (A), (B), (C) [or], (E) OR (F) of paragraph one of subsection (a) of section one thousand one hundred thirteen of this chapter.

S 5. This act shall take effect on the first of January next succeeding the date on which it shall have become a law and shall apply to policies or contracts issued, renewed, modified, altered, or amended on or after such date.