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

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6276

2009-2010 Regular Sessions

I N   A S S E M B L Y

February 27, 2009

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Introduced by M. of A. COOK, GREENE, GOTTFRIED, JACOBS, ZEBROWSKI -- Multi-Sponsored by -- M. of A. BOYLAND, PHEFFER, TOWNS -- read once and referred to the Committee on Insurance

AN ACT to amend the general business law, in relation to limited death benefit life insurance policies for persons aged sixty and over

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

Section 1. The general business law is amended by adding a new section 641 to read as follows:

S 641. FINANCIAL REVIEW OF POLICY. 1. WHENEVER A LIFE INSURANCE POLICY OR CERTIFICATE OF INSURANCE IS DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE TO AN APPLICANT AT AGE SIXTY AND OVER, WHICH LIMITS DEATH BENEFITS DURING A PERIOD FOLLOWING THE INCEPTION DATE OF THE POLICY OR WHERE THE ACCUMULATED PREMIUMS EXCEED THE DEATH BENEFIT AT ANY POINT DURING THE FIRST TEN YEARS, THE INSURER SHALL PROVIDE THE INSURED WITH A COPY OF A "FINANCIAL REVIEW OF POLICY" FORM OF AT LEAST TEN POINT IN SIZE. SUCH FORM SHALL USE SUBSTANTIALLY THE SAME FORMAT AND TERMINOLOGY SHOWN BELOW, AND SHALL HAVE COMPLETE INFORMATION PROVIDED FOR ANY AND ALL BLANK SPACE.

FINANCIAL REVIEW OF POLICY

NOTICE: YOU SHOULD REVIEW THIS FORM AND YOUR POLICY AND DECIDE IF THE POLICY IS SUITABLE FOR YOU. IF YOU ARE NOT ENTIRELY SATISFIED, PURSUANT TO NEW YORK STATE LAW, YOU MAY RETURN THE POLICY WITHIN THIRTY DAYS FROM THE DATE YOU RECEIVE IT AND OBTAIN A FULL REFUND OF ANY PREMIUMS PAID. THIS IS A POLICY OFFERED WITHOUT AN ATTEMPT TO CLASSIFY RISKS BY DETERMINING YOUR STATE OF HEALTH. PREMIUMS MAY HAVE BEEN LOWER IF HEALTH INFORMATION HAD BEEN OBTAINED.

APPLICANT INFORMATION:

NAME: AGE: SEX:

(1) (2) (3) (4) (5)

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

LBD01278-01-9

| END OF POLICY YEAR | ANNUAL PREM- IUM | PREM- IUMS ACCUM- ULATING INTEREST AT 5% | DEATH BENEFITS | CASH SURREN- DER VALUE | COL 3 MINUS COL 2 NET GAIN (NET LOSS) |
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DEFINITIONS. THE FOLLOWING TERMS USED IN THE ABOVE CHART ARE DEFINED AS:

1. ANNUAL PREMIUM -- AMOUNT YOU MUST PAY EACH YEAR TO KEEP THIS POLICY IN FORCE.

2. PREMIUMS ACCUMULATING INTEREST AT 5% -- AMOUNT WHICH COULD BE EARNED IF, INSTEAD OF PURCHASING INSURANCE, THE PREMIUM DOLLARS PAID TO THE INSURER WERE LEFT TO ACCUMULATE AT 5% INTEREST.

3. DEATH BENEFITS -- AMOUNT THAT WILL BE PAID UPON DEATH, EXCLUSIVE OF ANY SUPPLEMENTARY BENEFITS.

4. CASH SURRENDER VALUE -- AMOUNT THE INSURANCE COMPANY WILL PAY YOU IF YOU SURRENDER YOUR POLICY TO THE COMPANY FOR CASH.

5. NET GAIN OR LOSS -- THIS COLUMN SHOWS WHETHER YOUR MONEY WOULD HAVE EARNED MORE OR LESS AT 5% INTEREST THAN YOUR LIFE INSURANCE BENEFIT.

2. ANY CONSUMER INJURED BY A VIOLATION OF THIS SECTION MAY BRING AN ACTION FOR RECOVERY OF DAMAGES. JUDGMENT SHALL BE ENTERED IN FAVOR OF A CONSUMER IN AN AMOUNT NOT TO EXCEED THREE TIMES THE ACTUAL DAMAGES OR ONE HUNDRED DOLLARS WHICHEVER IS GREATER. THE COURT MAY AWARD REASONABLE ATTORNEY'S FEES TO A PREVAILING PLAINTIFF.

3. IN ADDITION TO THE OTHER REMEDIES PROVIDED, WHENEVER THERE SHALL BE A VIOLATION OF THIS SECTION, APPLICATION MAY BE MADE BY THE ATTORNEY GENERAL IN THE NAME OF THE PEOPLE OF THE STATE OF NEW YORK TO A COURT OR JUSTICE HAVING JURISDICTION BY A SPECIAL PROCEEDING TO ISSUE AN INJUNCTION, AND UPON NOTICE TO THE DEFENDANT OF NOT LESS THAN FIVE DAYS, TO ENJOIN AND RESTRAIN THE CONTINUANCE OF SUCH VIOLATIONS; AND IF IT SHALL APPEAR TO THE SATISFACTION OF THE COURT OR JUSTICE THAT THE DEFENDANT HAS, IN FACT, VIOLATED THIS ARTICLE, AN INJUNCTION MAY BE ISSUED BY SUCH COURT OR JUSTICE, ENJOINING AND RESTRAINING ANY FURTHER VIOLATION, WITHOUT REQUIRING PROOF THAT ANY PERSON HAS, IN FACT, BEEN INJURED OR DAMAGED THEREBY. IN ANY SUCH PROCEEDING, THE COURT MAY MAKE ALLOWANCES TO THE ATTORNEY GENERAL AS PROVIDED IN PARAGRAPH SIX OF SUBDIVISION (A) OF SECTION EIGHTY-THREE HUNDRED THREE OF THE CIVIL PRACTICE LAW AND RULES, AND DIRECT RESTITUTION. WHENEVER THE COURT SHALL DETERMINE THAT A VIOLATION OF THIS ARTICLE HAS OCCURRED, THE COURT MAY IMPOSE A CIVIL PENALTY OF NOT MORE THAN FIVE HUNDRED DOLLARS FOR EACH VIOLATION. IN CONNECTION WITH ANY SUCH PROPOSED APPLICATION, THE ATTORNEY GENERAL IS AUTHORIZED TO TAKE PROOF AND MAKE A DETERMINATION OF THE RELEVANT FACTS

AND TO ISSUE SUBPOENAS IN ACCORDANCE WITH THE CIVIL PRACTICE LAW AND RULES.

S 2. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.