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

10876--A

I N A S S E M B L Y

April 27, 2010

Introduced by M. of A. MORELLE -- read once and referred to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law, in relation to prohibiting accelerated payment of death benefits or a special surrender value pursuant to a life insurance policy upon residency in a nursing home for three months or more by the person whose life is insured

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

Section 1. Paragraph 1 of subsection (a) of section 1113 of the insurance law, as amended by chapter 130 of the laws of 2003, 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 applicable sections of federal law in order to maintain favorable tax treatment, [or] (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

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

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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. "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 2. Subparagraph (A) of paragraph 11 of subsection (c) of section 3201 of the insurance law, as amended by chapter 537 of the laws of 2000, such paragraph as renumbered by chapter 389 of the laws of 2001, 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) [or subparagraph], (C) [or subparagraph], (D) OR (E) 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 3. Subsection (f) of section 3230 of the insurance law, as added by chapter 537 of the laws of 2000, 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) [or], (C) OR (E) of paragraph one of subsection (a) of section one thousand one hundred thirteen of this chapter.

S 4. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.