

6276

2009-2010 Regular Sessions

I N A S S E M B L Y

February 27, 2009

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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. The general business law is amended by adding a new section
2 641 to read as follows:

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

13 FINANCIAL REVIEW OF POLICY

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

22 APPLICANT INFORMATION:

23 NAME: AGE: SEX:
24 (1) (2) (3) (4) (5)

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

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1					COL 3
2		PREM-			MINUS
3		IUMS			COL 2
4	END OF	ANNUAL	ACCUM-	CASH	NET
5	POLICY	PREM-	ULATING	SURREN-	GAIN
6	YEAR	IUM	INTEREST	DER	(NET
7			AT 5%	BENEFITS	VALUE
8					LOSS)
9	1				
10	2				
11	3				
12	4				
13	5				
14	6				
15	7				
16	8				
17	9				
18	10				

19 DEFINITIONS. THE FOLLOWING TERMS USED IN THE ABOVE CHART ARE
 20 DEFINED AS:

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

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

26 3. DEATH BENEFITS -- AMOUNT THAT WILL BE PAID UPON DEATH, EXCLU-
 27 SIVE OF ANY SUPPLEMENTARY BENEFITS.

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

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

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

38 3. IN ADDITION TO THE OTHER REMEDIES PROVIDED, WHENEVER THERE SHALL BE
 39 A VIOLATION OF THIS SECTION, APPLICATION MAY BE MADE BY THE ATTORNEY
 40 GENERAL IN THE NAME OF THE PEOPLE OF THE STATE OF NEW YORK TO A COURT OR
 41 JUSTICE HAVING JURISDICTION BY A SPECIAL PROCEEDING TO ISSUE AN INJUNC-
 42 TION, AND UPON NOTICE TO THE DEFENDANT OF NOT LESS THAN FIVE DAYS, TO
 43 ENJOIN AND RESTRAIN THE CONTINUANCE OF SUCH VIOLATIONS; AND IF IT SHALL
 44 APPEAR TO THE SATISFACTION OF THE COURT OR JUSTICE THAT THE DEFENDANT
 45 HAS, IN FACT, VIOLATED THIS ARTICLE, AN INJUNCTION MAY BE ISSUED BY SUCH
 46 COURT OR JUSTICE, ENJOINING AND RESTRAINING ANY FURTHER VIOLATION, WITH-
 47 OUT REQUIRING PROOF THAT ANY PERSON HAS, IN FACT, BEEN INJURED OR
 48 DAMAGED THEREBY. IN ANY SUCH PROCEEDING, THE COURT MAY MAKE ALLOWANCES
 49 TO THE ATTORNEY GENERAL AS PROVIDED IN PARAGRAPH SIX OF SUBDIVISION (A)
 50 OF SECTION EIGHTY-THREE HUNDRED THREE OF THE CIVIL PRACTICE LAW AND
 51 RULES, AND DIRECT RESTITUTION. WHENEVER THE COURT SHALL DETERMINE THAT A
 52 VIOLATION OF THIS ARTICLE HAS OCCURRED, THE COURT MAY IMPOSE A CIVIL
 53 PENALTY OF NOT MORE THAN FIVE HUNDRED DOLLARS FOR EACH VIOLATION. IN
 54 CONNECTION WITH ANY SUCH PROPOSED APPLICATION, THE ATTORNEY GENERAL IS
 55 AUTHORIZED TO TAKE PROOF AND MAKE A DETERMINATION OF THE RELEVANT FACTS

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

3 S 2. This act shall take effect on the first of January next succeed-
4 ing the date on which it shall have become a law.