

6804

2011-2012 Regular Sessions

I N A S S E M B L Y

March 31, 2011

Introduced by M. of A. COOK, 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:

1 Section 1. The general business law is amended by adding a new article  
2 30-B to read as follows:

3 ARTICLE 30-B

4 FINANCIAL REVIEW REQUIREMENT FOR LIMITED  
5 DEATH BENEFIT LIFE INSURANCE POLICIES FOR  
6 PERSONS AGED SIXTY AND OVER

7 SECTION 645. FINANCIAL REVIEW OF POLICY.

8 S 645. FINANCIAL REVIEW OF POLICY. 1. WHENEVER A LIFE INSURANCE POLICY  
9 OR CERTIFICATE OF INSURANCE IS DELIVERED OR ISSUED FOR DELIVERY IN THIS  
10 STATE TO AN APPLICANT AT AGE SIXTY AND OVER, WHICH LIMITS DEATH BENEFITS  
11 DURING A PERIOD FOLLOWING THE INCEPTION DATE OF THE POLICY OR WHERE THE  
12 ACCUMULATED PREMIUMS EXCEED THE DEATH BENEFIT AT ANY POINT DURING THE  
13 FIRST TEN YEARS, THE INSURER SHALL PROVIDE THE INSURED WITH A COPY OF A  
14 "FINANCIAL REVIEW OF POLICY" FORM OF AT LEAST TEN POINT IN SIZE. SUCH  
15 FORM SHALL USE SUBSTANTIALLY THE SAME FORMAT AND TERMINOLOGY SHOWN  
16 BELOW, AND SHALL HAVE COMPLETE INFORMATION PROVIDED FOR ANY AND ALL  
17 BLANK SPACE.

18 FINANCIAL REVIEW OF POLICY

19 NOTICE: YOU SHOULD REVIEW THIS FORM AND YOUR POLICY AND  
20 DECIDE IF THE POLICY IS SUITABLE FOR YOU. IF YOU ARE NOT  
21 ENTIRELY SATISFIED, PURSUANT TO NEW YORK STATE LAW, YOU MAY  
22 RETURN THE POLICY WITHIN THIRTY DAYS FROM THE DATE YOU  
23 RECEIVE IT AND OBTAIN A FULL REFUND OF ANY PREMIUMS PAID.  
24 THIS IS A POLICY OFFERED WITHOUT AN ATTEMPT TO CLASSIFY

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

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1 RISKS BY DETERMINING YOUR STATE OF HEALTH. PREMIUMS MAY HAVE  
 2 BEEN LOWER IF HEALTH INFORMATION HAD BEEN OBTAINED.

3 APPLICANT INFORMATION:

4	NAME:		AGE:	SEX:	
5	(1)	(2)	(3)	(4)	(5)
6					COL 3
7			PREM-		MINUS
8			IUMS		COL 2
9	END OF	ANNUAL	ACCUM-	CASH	NET
10	POLICY	PREM-	ULATING	SURREN-	GAIN
11	YEAR	IUM	INTEREST	DER	(NET
12			AT 5%	DEATH	VALUE
13				BENEFITS	LOSS)

- 14 1
- 15 2
- 16 3
- 17 4
- 18 5
- 19 6
- 20 7
- 21 8
- 22 9
- 23 10

24 DEFINITIONS. THE FOLLOWING TERMS USED IN THE ABOVE CHART ARE  
 25 DEFINED AS:

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

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

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

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

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

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

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

1 RULES, AND DIRECT RESTITUTION. WHENEVER THE COURT SHALL DETERMINE THAT A  
2 VIOLATION OF THIS ARTICLE HAS OCCURRED, THE COURT MAY IMPOSE A CIVIL  
3 PENALTY OF NOT MORE THAN FIVE HUNDRED DOLLARS FOR EACH VIOLATION. IN  
4 CONNECTION WITH ANY SUCH PROPOSED APPLICATION, THE ATTORNEY GENERAL IS  
5 AUTHORIZED TO TAKE PROOF AND MAKE A DETERMINATION OF THE RELEVANT FACTS  
6 AND TO ISSUE SUBPOENAS IN ACCORDANCE WITH THE CIVIL PRACTICE LAW AND  
7 RULES.

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