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I N   A S S E M B L Y

March 4, 2014

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Introduced by M. of A. GJONAJ -- read once and referred 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:

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

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

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

12    (1) "Life Insurance," means every insurance upon the lives of human  
13    beings, and every insurance appertaining thereto, including the granting  
14    of endowment benefits, additional benefits in the event of death by  
15    accident, additional benefits to safeguard the contract from lapse,  
16    accelerated payments of part or all of the death benefit or a special  
17    surrender value upon (A) diagnosis of terminal illness defined as a life  
18    expectancy of twelve months or less, (B) diagnosis of a medical condi-  
19    tion requiring extraordinary medical care or treatment regardless of  
20    life expectancy, (C) certification by a licensed health care practition-  
21    er of any condition which requires continuous care for the remainder of  
22    the insured's life in an eligible facility or at home when the insured  
23    is chronically ill as defined by Section 7702(B) of the Internal Revenue  
24    Code and regulations thereunder, provided the accelerated payments qual-  
25    ify 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.

LBD14174-01-4

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

27 S 3. Subparagraph (A) of paragraph 11 of subsection (c) of section  
28 3201 of the insurance law, as amended by chapter 563 of the laws of  
29 2010, is amended to read as follows:

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

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

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

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