

By Senator Negrón

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20121756

1 A bill to be entitled
2 An act relating to life insurance; requiring certain
3 life insurance policies or life insurance policy
4 riders to provide for accelerated payment of death
5 benefits to insureds who have been residents of a
6 nursing home for a specified amount of time and who
7 are expected to remain residents of a nursing home
8 until their death; requiring insurers providing life
9 insurance to offer applicants for life insurance
10 certain policies or riders providing for accelerated
11 death benefit payments; requiring that insurers offer
12 by a specified date riders providing certain
13 accelerated death benefit payments to every insured
14 holding a life insurance policy in effect before the
15 effective date of this act; requiring that an insured
16 who holds a life insurance policy and who applies for
17 Medicaid benefits in order to pay for long-term care
18 determine the fair market value of the policy and
19 spend down all proceeds from converting the policy to
20 pay for long-term care in a specified manner;
21 requiring a long-term care benefit plan to ensure that
22 certain payments are to be made to an insured's estate
23 and guarantee payment of a specified funeral expense
24 benefit to an insured's estate; providing an
25 exception; requiring insurers to provide written
26 notifications under certain circumstances containing
27 specified information and statements to life insurance
28 policy owners who are of a certain age or terminally
29 or chronically ill; providing penalties and remedies

28-00835B-12

20121756

30 under part II of ch. 501, F.S., relating to deceptive
31 and unfair trade practices, for an insurer's failure
32 to comply with such notice requirements; requiring the
33 Office of Insurance Regulation to adopt rules;
34 providing an effective date.

35
36 Be It Enacted by the Legislature of the State of Florida:

37
38 Section 1. Life insurance accelerated benefit policy or
39 rider.—

40 (1) Any insured who holds a life insurance policy or life
41 insurance policy rider that provides accelerated payments of a
42 death benefit upon diagnosis of a terminal illness defined as a
43 life expectancy of 12 months or less is entitled to an
44 accelerated payment of a death benefit if it is shown that the
45 insured has been a resident of a nursing home for at least 3
46 months and is expected to remain a resident of a nursing home
47 until his or her death. The amount of the benefit to which the
48 insured is entitled must be determined in an actuarially
49 appropriate manner by considering the length the policy has been
50 in effect, the amount that has been paid on the policy, the cash
51 value of the policy, and the amount of the death benefit.

52 (2) Every insurer providing life insurance in this state
53 must offer an applicant for life insurance a policy or rider
54 entitling the insured to accelerated payment of a death benefit
55 upon diagnosis of a terminal illness or upon a showing that the
56 insured has been a resident of a nursing home and is expected to
57 remain a resident of a nursing home until his or her death, as
58 provided under subsection (1).

28-00835B-12

20121756

59 (3) On or before July 1, 2013, every insurer must offer a
60 rider that provides the accelerated payment of a death benefit
61 as provided under subsection (1) to every insured holding a life
62 insurance policy in effect before the effective date of this
63 act.

64 (4) Any insured who holds a life insurance policy must
65 determine the fair market value of the policy, as provided under
66 this section, if he or she applies for Medicaid benefits to pay
67 for long-term care, and must first spend down all proceeds from
68 converting the policy to which he or she is entitled,
69 exclusively in payment for long-term care services under the
70 direction of an irrevocable long-term care benefit account
71 administered by a qualified third party. After completion of the
72 spend down of the long-term care benefit through use of an
73 irrevocable long-term care benefit account, the Medicaid
74 applicant may be considered for Medicaid eligibility.

75 (5) A long-term care benefit plan must:

76 (a) Ensure that if the insured dies before the long-term
77 care benefit account has been spent down, any remaining unused
78 balance of monthly benefit payments is to be paid to the estate
79 of the insured; and

80 (b) Guarantee that upon proof of the insured's death, a
81 final funeral expense benefit of \$5,000 or 5 percent of the
82 policy's face value, whichever is less, is to be paid to the
83 estate of the insured.

84
85 A qualified funeral expense policy is exempt from the
86 requirements of this subsection.

87 Section 2. Lapse or surrender of life insurance policy;

28-00835B-12

20121756

88 notice to policy owners age 65 or older or terminally or
89 chronically ill.-

90 (1) An insurer must provide the written notice required by
91 subsection (2) to a life insurance policy owner if an insured is
92 age 65 or older, or known by the insurer to be terminally or
93 chronically ill, and if:

94 (a) The policy owner requests the surrender, in whole or in
95 part, of a policy;

96 (b) The policy owner requests an accelerated death benefit
97 under a policy;

98 (c) The insurer sends notice to the policy owner that the
99 policy may lapse; however, an insurer does not have to provide
100 the notice required under this subsection to a policy owner more
101 than once within a 12-month period after the date of the first
102 notice that the policy may lapse; or

103 (d) At any other time that the Commissioner of Insurance
104 Regulation may prescribe by rule.

105

106 The failure of an insurer to comply with the requirements of
107 this subsection is a deceptive and unfair trade practice as
108 defined in part II of chapter 501, Florida Statutes, and is
109 subject to the penalties and remedies provided therein.

110 (2) The Office of Insurance Regulation, under the direction
111 of the Commissioner of Insurance Regulation, must adopt rules
112 that provide for a written notice that appraises a policy owner
113 in lay terms of the alternatives available to prevent the lapse
114 or surrender of a policy and a policy owner's rights relating to
115 the disposition of a policy. The Office of Insurance Regulation
116 shall bear any and all costs associated with the development and

28-00835B-12

20121756

117 adoption of rules under this subsection.

118 (3) The written notice must contain the following:

119 (a) A statement explaining that life insurance is a
120 critical part of a broader financial plan;

121 (b) A statement explaining that there are alternatives to
122 the lapse or surrender of a policy;

123 (c) A general description of the following alternatives to
124 the lapse or surrender of a policy:

125 1. Accelerated death benefits available under the policy or
126 as a rider to the policy;

127 2. The sale of the policy pursuant to a life settlement
128 contract, including that a life settlement is a regulated
129 transaction in this state;

130 3. The replacement of the policy pursuant to statute, rule,
131 or the terms of the policy;

132 4. The maintenance of the policy pursuant to the terms of
133 the policy, pursuant to a rider to the policy, or through a life
134 settlement contract;

135 5. The maintenance of the policy through the use of loans
136 issued by an insurer or a third party, using the cash surrender
137 value of the policy as collateral to obtain the loans;

138 6. Conversion of the policy from a term policy to a
139 permanent policy; and

140 7. Conversion of the policy in order to obtain long-term
141 care health insurance coverage or a long-term care benefit plan;
142 and

143 (d) A statement explaining that life insurance, life
144 settlements, or other alternatives to the lapse or surrender of
145 the policy described in the notice may or may not be available

28-00835B-12

20121756__

146 to a particular policy owner depending on a number of
147 circumstances, including, but not limited to, the age and health
148 status of the insured or the terms of a life insurance policy,
149 and that a policy owner should contact his or her financial
150 advisor, insurance agent, broker, or attorney to obtain further
151 advice and assistance.

152 Section 3. This act shall take effect July 1, 2012.