



House of Representatives

General Assembly

File No. 12

January Session, 2009

Substitute House Bill No. 6279

House of Representatives, February 24, 2009

The Committee on Insurance and Real Estate reported through REP. FONTANA, S. of the 87th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING ACCELERATED BENEFITS OF LIFE INSURANCE POLICIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-457 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective January 1, 2010*):

3 (a) As used in this section:

4 (1) "Accelerated benefits" means benefits payable under a life
5 insurance policy sold in this state: (A) During the lifetime of the
6 insured, in a lump sum or in periodic payments, as specified in the
7 policy, [provided upon the occurrence of a qualifying event, as defined
8 in subparagraph (C) of subdivision (3) of this subsection, no such
9 benefits shall be payable in periodic payments,] (B) upon the
10 occurrence of a qualifying event, as defined in the policy, and certified
11 by a physician who is licensed under the laws of a state or territory of
12 the United States, or such other foreign or domestic jurisdiction as the

13 Insurance Commissioner may approve, and (C) which reduce the
14 death benefits otherwise payable under the life insurance policy.

15 (2) "Insurance policy" or "policy" means an insurance policy or
16 certificate or rider or endorsement thereto.

17 (3) "Qualifying event" means (A) a medically determinable
18 condition suffered by the insured [which] that can be expected to
19 result in death in a relatively short period of time, such as twelve
20 months and may include, but is not limited to, coronary artery disease,
21 myocardial infarction, stroke, kidney failure or liver disease, [or] (B) a
22 medical condition [which] that would, in the absence of extensive or
23 extraordinary medical treatment, result in death in a relatively short
24 period of time, such as twelve months, or (C) a medically determinable
25 condition suffered by the insured, [which] such as a permanent chronic
26 illness that can be expected to result in a reduced life span, that has
27 caused the insured to be confined for at least six months in such
28 insured's home or in an institution [which] that provides necessary
29 care or treatment of an injury, illness or loss of functional capacity,
30 [rendered by a certified or licensed health care provider in a setting
31 other than an acute care hospital,] and for which it has been medically
32 determined that such insured is expected to remain confined in such
33 home or institution until death.

34 (b) On and after October 1, 1990, any life insurance company or
35 fraternal benefits society doing business in this state may issue
36 accelerated benefits life insurance policies, as described in this section,
37 and certificates, riders or endorsements to existing life insurance
38 policies which provide accelerated benefits, as described in this
39 section.

40 (c) An accelerated benefits life insurance policy shall not include a
41 policy providing for disability income protection coverage or long-
42 term care coverage, as defined in sections 38a-501 and 38a-528.

43 (d) (1) Death benefits may not be reduced more than the amount of
44 the accelerated benefits paid plus any applicable actuarial discount

45 appropriate to the policy design for policies without additional
46 premium payments. When an accelerated benefit is paid, the amount
47 paid may be considered as (A) a pro rata reduction in cash value or
48 death benefits, or both, or (B) a lien against the death benefit of the
49 contract and the access to the cash value shall be restricted to any
50 excess of the cash value over the sum of other outstanding loans and
51 the lien.

52 (2) The accidental death benefit, if any, in the policy shall not be
53 affected by the payment of the accelerated benefit.

54 (e) All accelerated benefits policies shall comply with the following
55 disclosure requirements:

56 (1) The face of every accelerated benefits policy shall contain: (A) A
57 description of coverage which uses the terminology "accelerated" and
58 (B) the following statement: "Benefits as specified under this policy
59 will be reduced upon receipt of an accelerated benefit."

60 (2) Disclosure is required, at the time of application and at the time
61 the accelerated benefits payment request is submitted, of the potential
62 tax implications of receiving this payout. The disclosure statement
63 shall indicate that the receipt of accelerated benefits may be taxable
64 and that the insured should seek assistance from their personal tax
65 advisor. Such disclosure shall be prominently displayed on the first
66 page of the policy.

67 (3) Prior to or concurrent with the application, the applicant shall be
68 given a written disclosure including, but not limited to, a brief
69 description of the accelerated benefit, the effect of the payment of an
70 accelerated benefit on the policy's cash value, death benefit, premium,
71 policy loans and policy liens, and definitions of the conditions or
72 occurrences triggering payment of the accelerated benefits. In the
73 event of direct mail solicitation, the disclosure shall be made upon
74 acceptance of the application.

75 (4) The insurer shall disclose in its solicitation any separate

76 identifiable premium for the accelerated benefit. Those insurers
77 indicating that this accelerated benefit is offered without additional
78 premium shall furnish a written explanation to the Insurance
79 Commissioner when filing the product.

80 (5) Prior to or concurrent with the request for accelerated death
81 benefits, the applicant shall be given an illustration demonstrating the
82 effect of the payment of an accelerated benefit on the policy's cash
83 value, death benefit, premium, policy loans and policy liens.

84 (f) The insurer shall file with the Insurance Department the
85 information concerning the manner by which the actuarial discount
86 and mortality charge, if any, is calculated for the accelerated benefit.
87 The commissioner, if he determines that such discount or mortality
88 charge is excessive, shall hold a hearing to determine such reasonable
89 charges.

90 (g) Any life insurance policy or any certificate, rider or endorsement
91 thereto, which provides accelerated benefits pursuant to the
92 occurrence of a qualifying event, as defined in subparagraph (C) of
93 subdivision (3) of subsection (a) of this section, shall contain the
94 following statement printed in a conspicuous and readily discernible
95 manner: "This policy is not a long-term care policy as defined in
96 sections 38a-501 and 38a-528 of the Connecticut General Statutes."

97 (h) The Insurance Commissioner may adopt, in accordance with
98 chapter 54, such regulations as [he] the commissioner deems necessary
99 for the purpose of this section, including the medically determinable
100 conditions that are considered to be qualifying events as set forth in
101 subdivision (3) of subsection (a) of this section, and the authority to
102 establish the minimum or maximum benefit, if any, payable under an
103 accelerated benefit policy. Prior to the effective date of any such
104 regulations, any such policy may be filed with the commissioner and,
105 at [his] the commissioner's discretion, may be approved.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2010</i>	38a-457

INS *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

This bill expands life insurance policies' accelerated benefit options and does not result in a fiscal impact to the Insurance Department or municipalities.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis

sHB 6279

AN ACT CONCERNING ACCELERATED BENEFITS OF LIFE INSURANCE POLICIES.

SUMMARY:

This bill expands the benefits available under a life insurance policy's accelerated death benefit option by revising what constitutes a "qualifying event." An accelerated death benefit pays benefits during an insured person's life, upon the occurrence of a qualifying event. Such a payment reduces the benefit payable upon death. The law permits life insurers and fraternal benefit societies to include an accelerated benefit option in life insurance policies.

The bill adds as a qualifying event confinement for at least six months due to a "medically determinable condition" in the insured person's home or an acute care hospital, if the person is expected to remain confined at that location until death. Current law requires benefits to be paid only if the confinement is in a nonacute care institution where a certified or licensed health care provider renders the necessary care. The bill eliminates the requirement that a certified or licensed health care provider render the care in an institutional setting.

The bill adds, as an example of a medically determinable condition resulting in confinement, a permanent chronic illness that is expected to reduce a person's life span. It specifically authorizes the insurance commissioner to issue regulations regarding medically determinable conditions that are considered qualifying events. The law permits the commissioner to issue regulations deemed necessary to implement the accelerated death benefit statutes.

The bill also allows payment of accelerated benefits due to

confinement in either lump sum or periodic payments. Current law permits only lump sum payments.

EFFECTIVE DATE: January 1, 2010

DEFINITION OF QUALIFYING EVENT

Current law defines a “qualifying event” as (1) a medically determinable condition, such as coronary artery disease, myocardial infarction, stroke, kidney failure, or liver disease, that can be expected to result in death within about 12 months; (2) a medical condition that would result in death within about 12 months in the absence of extensive or extraordinary medical treatment; or (3) a medically determinable condition that has caused the insured person to be confined for at least six months in an institution, other than an acute care hospital, where he or she (a) receives necessary care and treatment from a certified or licensed health care provider and (b) is expected to remain until death.

The bill leaves intact the first two parts of the “qualifying event” definition. It changes the third part to a medically determinable condition, such as a permanent chronic illness expected to reduce a person’s life span, that has caused the insured person to be confined for at least six months in his or her home or in an institution that provides necessary care and treatment. The insured person also must be expected to remain confined at that location until death.

BACKGROUND

Disclosure Requirements

The law requires a variety of disclosures to consumers regarding accelerated benefits. For example, either before or at the time of application, applicants must be given a written disclosure that includes (1) a brief description of the accelerated benefit; (2) a statement about the effect of accelerated benefit payments on the policy’s cash value, death benefit, premium, policy loans, and policy liens; and (3) definitions of the conditions or occurrences that trigger accelerated benefit payments.

The law also requires, at the time of application and when an accelerated benefit payment is requested, disclosure of the potential tax implications of receiving an accelerated payment. The disclosure must state that the accelerated benefits may be taxable and the insured person should seek assistance from a tax advisor. This disclosure also must be displayed prominently on the policy's first page. Each policy face page must include a description of coverage that uses the word "accelerated" and the following statement: "Benefits as specified under this policy will be reduced upon receipt of an accelerated benefit."

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 19 Nay 0 (02/10/2009)