



House of Representatives

File No. 991

General Assembly

January Session, 2009

(Reprint of File No. 12)

Substitute House Bill No. 6279
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 21, 2009

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 Section 38a-457 of the general statutes is repealed and the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 has resulted in the insured
26 being considered a chronically ill individual for the purposes of
27 Section 101(g) of the Internal Revenue Code of 1986, or any subsequent
28 corresponding internal revenue code of the United States, as amended
29 from time to time, and which has caused the insured to be confined for
30 at least six months in such insured's place of residence or in an
31 institution [which] that provides necessary care or treatment of an
32 injury, illness or loss of functional capacity, [rendered by a certified or
33 licensed health care provider in a setting other than an acute care
34 hospital,] and for which it has been medically determined that such
35 insured is expected to remain confined in such place of residence or
36 institution until death.

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

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

46 (d) (1) Death benefits may not be reduced more than the amount of

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

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

57 (e) All accelerated benefits policies shall comply with the following
58 disclosure requirements:

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

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

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

78 (4) The insurer shall disclose in its solicitation any separate
79 identifiable premium for the accelerated benefit. Those insurers
80 indicating that this accelerated benefit is offered without additional
81 premium shall furnish a written explanation to the Insurance
82 Commissioner when filing the product.

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

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

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

100 (h) The Insurance Commissioner may adopt, in accordance with
101 chapter 54, such regulations as [he] the commissioner deems necessary
102 for the purpose of this section, including the medically determinable
103 conditions that are considered to be qualifying events as set forth in
104 subdivision (3) of subsection (a) of this section, and the authority to
105 establish the minimum or maximum benefit, if any, payable under an
106 accelerated benefit policy. Prior to the effective date of any such
107 regulations, any such policy may be filed with the commissioner and,
108 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

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.

House "A," amongst other provisions, clarifies the definition of a "Qualifying event" and changes the language of the bill from "home" to "place of residence." It does not result in a fiscal impact.

The Out Years

None

OLR Bill Analysis**sHB 6279 (as amended by House "A")******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 in the insured person's residence or an acute care hospital for at least six months due to a "medically determinable condition," 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.

By law, confinement must be due to a medically determinable condition. The bill specifies that an individual must be deemed chronically ill for the purposes of Internal Revenue Code (I.R.C) § 101(g). 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.

*House Amendment "A" (1) changes the definition of a "medically determinable condition" from a permanent chronic illness expected to result in a reduced life span to refer instead to an individual deemed chronically ill for the purposes of I.R.C § 101(g), (2) changes references to "place of residence" from "home," and (3) makes technical changes.

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 resulting in the insured being considered a chronically ill individual for the purposes of I.R.C. § 101(g) or any subsequent corresponding internal revenue code and that has caused the insured person to be confined for at least six months in his or her place of residence 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.

Chronically Ill Individuals

I.R.C. § 101(g) refers to the definition of “chronically ill individual” given in I.R.C. § 7702B(c)(2), excluding terminally ill individuals.

I.R.C. § 7702B(c)(2) defines a “chronically ill individual” to include anyone who has been certified by a licensed health care practitioner as (1) being unable to perform (without substantial assistance from another individual) at least two activities of daily living for a period of at least 90 days due to a loss of functional capacity, or a similar level of disability, as determined under regulations, or (2) requiring substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment. A licensed health care practitioner must have certified within the preceding 12- months that the individual meets the requirements.

Activities of daily living include eating, toileting, transferring, bathing, dressing, and continence.

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)