



# Senate

General Assembly

**File No. 124**

January Session, 2011

Senate Bill No. 171

*Senate, March 22, 2011*

The Committee on Insurance and Real Estate reported through SEN. CRISCO of the 17th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

***AN ACT CONCERNING DISCLOSURES TO BENEFICIARIES OF LIFE INSURANCE PROCEEDS AND RETAINED ASSET ACCOUNTS.***

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

1 Section 1. Section 38a-454 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2011*):

3 (a) (1) Any domestic life insurance company shall have power to  
4 hold the proceeds of any policy issued by it under a trust or other  
5 agreement upon such terms and restrictions as to revocation by the  
6 policyholder and control by beneficiaries and with such exemptions  
7 from the claims of creditors of beneficiaries other than the policyholder  
8 as have been agreed to in writing by such company and the  
9 policyholder. Such insurance company shall not be required to  
10 segregate funds so held but may hold them as a part of its general  
11 corporate assets. Similar terms, restrictions and exemptions, for the  
12 benefit of any payee other than the purchaser, may be included by any  
13 such company in any annuity contract or any agreement issued in  
14 connection therewith or supplemental thereto. When any foreign or

15 alien life insurance company doing business in [Connecticut] this state  
16 holds the proceeds of a life insurance policy or annuity contract under  
17 any trust or other agreement consistent with its charter or the laws of  
18 its domicile, beneficiaries of such trust or other agreement shall be  
19 entitled to exemptions from claims of creditors as hereinbefore  
20 provided to the same extent as if the trust or other agreement were  
21 entered into with a domestic life insurance company.

22 (2) Prior to the tender, other than as a lump sum payment, of the  
23 proceeds of a life insurance policy, the life insurance company shall  
24 provide to a beneficiary or the beneficiary's legal representative, in  
25 written or electronic format, in plain language and in not less than  
26 twelve-point type, a complete description and explanation of all the  
27 proceeds payment options available to such beneficiary, including, but  
28 not limited to, the beneficiary's right to receive a lump sum payment in  
29 the form of a bank check.

30 (b) (1) For purposes of this subsection, "retained asset account"  
31 means a checking account established by an insurance company, into  
32 which such company deposits the proceeds of a life insurance policy  
33 pursuant to a supplementary contract with the beneficiary of such  
34 policy or the beneficiary's legal representative.

35 (2) No life insurance company shall use a retained asset account to  
36 hold the proceeds of a life insurance policy unless such company  
37 discloses the following in written or electronic format, in plain  
38 language and in not less than twelve-point type, to the beneficiary or  
39 the beneficiary's legal representative, and receives such beneficiary's or  
40 beneficiary's legal representative's agreement, in writing, to the use of  
41 a retained asset account:

42 (A) That the beneficiary should consult an investment advisor, a  
43 financial advisor or a professional tax advisor regarding possible  
44 investment options and tax liabilities;

45 (B) That the payment of some or all of the proceeds may be by  
46 means of checks delivered to the beneficiary to access the available

47 funds;

48 (C) That the entire amount of the proceeds are available to the  
49 beneficiary by writing a single check;

50 (D) The initial interest rate, an explanation of how and when interest  
51 rates may change and any dividends or other gains that may be paid  
52 or distributed to the beneficiary;

53 (E) That the insurance company or a related party may invest the  
54 account funds and derive income, in addition to any fees charged to  
55 the account, from earnings received on such investment;

56 (F) The custodian of the account funds;

57 (G) The coverage guaranteed by the Federal Deposit Insurance  
58 Corporation and the amount of such coverage;

59 (H) The limits, if any, on the number and amount of fund  
60 withdrawals that may be made from the account;

61 (I) The delays, if any, that the beneficiary may encounter in  
62 completing authorized transactions and the anticipated duration of  
63 such delays;

64 (J) Any fees that may apply to the account and any services  
65 provided by the insurance company for a fee, including the amounts of  
66 such fees or the methods of their calculation;

67 (K) The nature and frequency of account statements;

68 (L) The contact information, including Internet web site address, for  
69 the beneficiary to obtain additional information regarding the account;  
70 and

71 (M) The following statement: "For further information, please  
72 contact the Insurance Department.". The statement shall include the  
73 contact information of said department.

74 (3) Each life insurance company shall immediately return any funds  
75 held in a retained asset account to the beneficiary when no funds have  
76 been withdrawn and no affirmative directive has been provided to the  
77 insurance company by the beneficiary or the beneficiary's legal  
78 representative over any continuous four-year period.

79 (4) Each life insurance company shall report annually to the  
80 Insurance Commissioner, in a form and manner prescribed by said  
81 commissioner, the following information for retained asset accounts  
82 established for beneficiaries residing in the state:

83 (A) The number and aggregate dollar amount of retained asset  
84 accounts in existence on January first of the calendar year immediately  
85 preceding;

86 (B) The number and aggregate dollar amount of retained asset  
87 accounts opened during the calendar year immediately preceding;

88 (C) The number and aggregate dollar amount of retained asset  
89 accounts closed during the calendar year immediately preceding;

90 (D) The number and aggregate dollar amount of retained asset  
91 accounts in existence on December thirty-first of the calendar year  
92 immediately preceding;

93 (E) The aggregate dollar amount of investment earnings during the  
94 calendar year immediately preceding resulting from the investment of  
95 retained asset account funds;

96 (F) The aggregate dollar amount of fees and other charges assessed  
97 to retained asset accounts during the calendar year immediately  
98 preceding;

99 (G) A description of the interest rate or rates paid on retained asset  
100 accounts during the calendar year immediately preceding and the  
101 methodology and factors used to determine such rate or rates paid to  
102 the beneficiaries of such accounts;

103     (H) The number and aggregate dollar amounts of retained asset  
104     accounts that have been in existence for one, three and five years;

105     (I) The identity of any entity or financial institution that administers  
106     retained asset accounts on the insurance company's behalf;

107     (J) The number and aggregate dollar amount of retained asset  
108     accounts that were escheated in the calendar year immediately  
109     preceding; and

110     (K) Any other information relating to retained asset accounts the  
111     Insurance Commissioner may require.

112     (c) A violation of this section shall be deemed an unfair practice  
113     pursuant to section 38a-816.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2011	38a-454

**INS**        *Joint Favorable*

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.

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### ***OFA Fiscal Note***

#### ***State Impact:***

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 12 \$</b>	<b>FY 13 \$</b>
Insurance Department	GF - Revenue Gain	Potential Minimal	Potential Minimal

Note: GF=General Fund

***Municipal Impact:*** None

#### ***Explanation***

This bill may result in a minimal revenue gain for the General Fund from fines collected by the Department of Insurance. It adds to the list of unfair or deceptive insurance practices certain actions concerning retained asset accounts.

These fines are up to \$5,000 per violation (up to \$25,000 if knowingly committed).

#### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

**OLR Bill Analysis****SB 171*****AN ACT CONCERNING DISCLOSURES TO BENEFICIARIES OF LIFE INSURANCE PROCEEDS AND RETAINED ASSET ACCOUNTS.*****SUMMARY:**

This bill establishes disclosure and reporting requirements for life insurance companies regarding retained asset accounts (RAA). Specifically, it requires life insurance companies to:

1. disclose certain information to a beneficiary or the beneficiary's legal representative regarding available proceed payment options and the use of RAAs;
2. obtain written consent from a beneficiary or the beneficiary's legal representative to use an RAA;
3. close an RAA and immediately return any funds it holds to the beneficiary when (a) no funds have been withdrawn and (b) the beneficiary or his or her legal representative has not provided the company with an affirmative directive over any continuous four-year period; and
4. annually report to the insurance commissioner certain information regarding RAAs established for state residents.

The bill makes a violation of its provisions an unfair insurance practice.

The bill defines a "retained asset account" as a checking account established by an insurance company to deposit the proceeds of a life insurance policy pursuant to a supplementary contract with the beneficiary or the beneficiary's legal representative.

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EFFECTIVE DATE: October 1, 2011

## **DISCLOSURES**

### ***Proceed Payment Options***

The bill requires a life insurance company, prior to disbursing a policy's proceeds, to provide the beneficiary or his or her legal representative, a complete description and explanation and of all available proceed payment options, including the right to receive a lump sum payment in the form of a bank check. This information must be provided in written or electronic format, plain language, and in at least 12-point font. The requirement does not apply when disbursing a lump sum payment.

### ***RAAs***

The bill prohibits a life insurance company from using an RAA to hold life insurance policy proceeds unless the company makes certain disclosures to the beneficiary or the beneficiary's legal representative and receives written agreement from the beneficiary or beneficiary's legal representative to use the account. Specifically, it requires the company to disclose the following information:

1. that the beneficiary should consult an investment, financial, or professional tax advisor regarding possible investment options and tax liabilities;
2. that the payment of some or all of the proceeds may be made by checks delivered to the beneficiary to access available funds;
3. that the beneficiary may write a single check to receive the entire proceeds;
4. the initial interest rate, an explanation of how and when the rates may change, and any dividends or other gains that may be paid or distributed to the beneficiary;
5. that the insurance company or a related party may invest the account funds and derive income, in addition to any fees

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- charged to the account, from investment earnings;
6. the custodian of the account funds;
  7. the coverage, including the amount, guaranteed by the Federal Deposit Insurance Corporation;
  8. any limits on the number and amount of fund withdrawals that may be made from the account;
  9. any delays, including their anticipated duration, the beneficiary may encounter in completing authorized transactions;
  10. any applicable account fees and charges for services provided by the insurance company, including the amounts or methods for calculating them;
  11. the nature and frequency of account statements;
  12. the contact information, including Internet website address, for the beneficiary to obtain additional account information; and
  13. the insurance department's contact information and the following statement: "For further information, please contact the Insurance Department."

The bill requires this information to be provided in written or electronic format, plain language, and in at least 12-point type.

## **REPORTING REQUIREMENTS**

The bill requires each life insurance company to annually report to the insurance commissioner, in a form and manner he prescribes, certain information regarding retained asset accounts established for Connecticut residents. The report must include the following information for the immediately preceding calendar year:

1. the number and aggregate dollar amounts of retained asset accounts that were (a) in existence on January 1 and December 31; (b) opened, closed, or escheated; and (c) in existence for one,

- three, and five years;
2. the aggregate dollar amount of investment earnings, fees, and other charges assessed to retained asset accounts;
  3. a description of the interest rates paid on these accounts and the methods and factors used to determine the rates paid to beneficiaries;
  4. the identity of any entity or financial institution administering these accounts on the insurance company's behalf; and
  5. any other information the insurance commissioner requires.

## **BACKGROUND**

### ***Connecticut Unfair Insurance Practice Act (CUIPA)***

The law prohibits engaging in unfair or deceptive insurance acts or practices. CUIPA authorizes the insurance commissioner to issue regulations to implement the act, conduct investigations and hearings, issue cease and desist orders, ask the attorney general to seek injunctive relief in Superior Court, impose fines, revoke or suspend licenses, and order restitution.

Fines may be up to (1) \$5,000 per violation to a \$50,000 maximum, or (2) \$25,000 per violation to a \$250,000 maximum in any six-month period if knowingly committed. The law also imposes a fine of up to \$50,000, in addition to or in lieu of a license suspension or revocation, for violating a cease and desist order (CGS § 38a-817).

## **COMMITTEE ACTION**

Insurance and Real Estate Committee

Joint Favorable

Yea 9 Nay 8 (03/10/2011)