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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 2254

02/15/2012 Authored by Shimanski, Gottwalt, Abeler and Hoppe
The bill was read for the first time and referred to the Committee on Commerce and Regulatory Reform

1.1 A bill for an act
1.2 relating to insurance; permitting accelerated benefits available under a life
1.3 insurance policy to include long-term care coverage; permitting use of life
1.4 insurance cash value to pay premiums on long-term care insurance; amending
1.5 Minnesota Statutes 2010, section 61A.072, subdivisions 1, 5; proposing coding
1.6 for new law in Minnesota Statutes, chapter 61A.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2010, section 61A.072, subdivision 1, is amended to
1.9 read:

1.10 Subdivision 1. **Definitions.** (a) "Accelerated benefits" covered under this section are
1.11 benefits payable under the life insurance contract:

1.12 (1) to a policyholder or certificate holder, during the lifetime of the insured, in the
1.13 anticipation of death or upon the occurrence of a specified life-threatening or catastrophic
1.14 condition as defined by the policy or rider;

1.15 (2) that reduce the death benefit otherwise payable under the life insurance contract;
1.16 and

1.17 (3) that are payable upon the occurrence of a single qualifying event that results in
1.18 the payment of a benefit amount fixed at the time of acceleration.

1.19 (b) "Qualifying event" means one or more of the following:

1.20 (1) a medical condition that would result in a drastically limited life span as specified
1.21 in the contract;

1.22 (2) a medical condition that has required or requires extraordinary medical
1.23 intervention, such as, but not limited to, major organ transplant or continuous artificial life
1.24 support without which the insured would die;

2.1 (3) a condition that usually requires continuous confinement in an eligible institution
 2.2 as defined in the contract if the insured is expected to remain there for the rest of the
 2.3 insured's life;

2.4 (4) a medical condition that would, in the absence of extensive or extraordinary
 2.5 medical treatment, result in a drastically limited life span. Such conditions may include,
 2.6 but are not limited to, one or more of the following:

2.7 (i) coronary artery disease resulting in an acute infarction or requiring surgery;

2.8 (ii) permanent neurological deficit resulting from cerebral vascular accident;

2.9 (iii) end stage renal failure;

2.10 (iv) Acquired Immune Deficiency Syndrome; or

2.11 (v) other medical conditions that the commissioner shall approve for any particular
 2.12 filing; ~~or~~

2.13 (5) a determination by a health care provider that the insured is in need of long-term
 2.14 care; or

2.15 (6) other qualifying events that the commissioner approves for a particular filing.

2.16 **EFFECTIVE DATE.** This section is effective the day following final enactment
 2.17 and applies to life insurance contracts issued on or after that date.

2.18 Sec. 2. Minnesota Statutes 2010, section 61A.072, subdivision 5, is amended to read:

2.19 Subd. 5. **Disclosures.** (a) The terminology "accelerated benefit" shall be included
 2.20 in the descriptive title. Products regulated under this section shall not be described or
 2.21 marketed as long-term care insurance or as providing long-term care benefits, unless the
 2.22 product provides long-term care benefits in compliance with chapter 62S.

2.23 (b) A disclosure statement is required at the time of application for the policy or
 2.24 rider and at the time the accelerated benefit payment request is submitted that receipt of
 2.25 these accelerated benefits may be taxable and that assistance should be sought from a
 2.26 personal tax advisor. The disclosure statement shall be prominently displayed on the first
 2.27 page of the policy or rider and any other related documents.

2.28 (c)(1) A written disclosure including, but not necessarily limited to, a brief
 2.29 description of the accelerated benefit and definitions of the conditions or occurrences
 2.30 triggering payment of the benefits shall be given to the applicant. The description shall
 2.31 include an explanation of any effect of the payment of a benefit on the policy's cash value,
 2.32 accumulation account, death benefit, premium, policy loans, and policy liens.

2.33 (i) In the case of agent-solicited insurance, the agent shall provide the disclosure
 2.34 form to the applicant prior to or concurrently with the application. Acknowledgment of
 2.35 the disclosure shall be signed by the applicant and writing agent.

3.1 (ii) In the case of a solicitation by direct response methods, the insurer shall provide
3.2 the disclosure form to the applicant at the time the policy is delivered, with a notice that
3.3 a full premium refund shall be received if the policy is returned to the company within
3.4 the free look period.

3.5 (iii) In the case of group insurance policies, the disclosure form shall be contained
3.6 as part of the certificate of coverage or any related document furnished by the insurer
3.7 for the certificate holder.

3.8 (2) If there is a premium or cost of insurance charge, the insurer shall give the
3.9 applicant a generic illustration numerically demonstrating any effect of the payment of a
3.10 benefit on the policy's cash value, accumulation account, death benefit, premium, policy
3.11 loans, and policy liens.

3.12 (i) In the case of agent-solicited insurance, the agent shall provide the illustration to
3.13 the applicant prior to or concurrently with the application.

3.14 (ii) In the case of a solicitation by direct response methods, the insurer shall provide
3.15 the illustration to the applicant at the time the policy is delivered.

3.16 (iii) In the case of group insurance policies, the disclosure form shall be contained
3.17 as part of the certificate of coverage or any related document furnished by the insurer
3.18 for the certificate holder.

3.19 (3) Disclosure of premium charge.

3.20 (i) An insurer with financing options other than as described in subdivision 9,
3.21 paragraph (a), clauses (2) and (3), shall disclose to the policy owner any premium or cost
3.22 of insurance charge for the accelerated benefit. The insurer shall make a reasonable effort
3.23 to assure that the certificate holder is aware of any additional premium or cost of insurance
3.24 charge if the certificate holder is required to pay a charge.

3.25 (ii) An insurer shall furnish an actuarial demonstration to the state insurance
3.26 department when filing the product disclosing the method of arriving at its cost for the
3.27 accelerated benefit.

3.28 (4) The insurer shall disclose to the policy owner any administrative expense charge.
3.29 The insurer shall make a reasonable effort to assure that the certificate holder is aware of
3.30 any administrative expense charge if the certificate holder is required to pay the charge.

3.31 (d) When a policy owner or certificate holder requests an acceleration, the insurer
3.32 shall send a statement to the policy owner or certificate holder and irrevocable beneficiary
3.33 showing any effect that the payment of the accelerated benefit will have on the policy's
3.34 cash value, accumulation account, death benefit, premium, policy loans, and policy liens.
3.35 The statement shall disclose that receipt of accelerated benefit payments may adversely
3.36 affect the recipient's eligibility for Medicaid or other government benefits or entitlements.

4.1 In addition, receipt of an accelerated benefit payment may be taxable and assistance
4.2 should be sought from a personal tax advisor. When a previous disclosure statement
4.3 becomes invalid as a result of an acceleration of the death benefit, the insurer shall send
4.4 a revised disclosure statement to the policy owner or certificate holder and irrevocable
4.5 beneficiary. When the insurer agrees to accelerate death benefits, the insurer shall issue an
4.6 amended schedule page to the policyholder or notify the certificate holder under a group
4.7 policy to reflect any new reduced in-force face amount of the contract.

4.8 **EFFECTIVE DATE.** This section is effective the day following final enactment
4.9 and applies to life insurance contracts issued on or after that date.

4.10 Sec. 3. **[61A.075] LONG-TERM CARE BENEFITS; USE OF LIFE INSURANCE**
4.11 **CASH VALUE PERMITTED.**

4.12 An owner of a life insurance policy that has a cash value may borrow against that
4.13 cash value as necessary to pay premiums on long-term care insurance that complies with
4.14 chapter 62S.

4.15 **EFFECTIVE DATE.** This section is effective the day following final enactment.