

HB 1055

2012

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; authorizing the Office of Insurance
26 Regulation, in consultation with the Agency for Health
27 Care Administration and the Department of Children and
28 Family Services, to adopt rules; requiring insurers to

29 provide written notifications under certain
 30 circumstances containing specified information and
 31 statements to life insurance policy owners who are of
 32 a certain age or terminally or chronically ill;
 33 providing penalties and remedies under pt. II of
 34 chapter 501, F.S., relating to deceptive and unfair
 35 trade practices, for an insurer's failure to comply
 36 with such notice requirements; requiring the Office of
 37 Insurance Regulation to adopt rules; providing an
 38 effective date.

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40 Be It Enacted by the Legislature of the State of Florida:

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42 Section 1. Life insurance accelerated benefit policy or
 43 rider.—

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

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

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

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

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

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

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

88
 89 A qualified funeral expense policy is exempt from the
 90 requirements of this subsection.

91 (6) The Office of Insurance Regulation, in consultation
 92 with the Agency for Health Care Administration and the
 93 Department of Children and Family Services, is authorized to
 94 adopt rules to implement this section, including, but not
 95 limited to, rules that establish through guidelines an
 96 actuarially appropriate method for calculating the amount of
 97 benefit to which an insured holding a life insurance accelerated
 98 benefit policy or rider is entitled.

99 Section 2. Lapse or surrender of life insurance policy;
 100 notice to policy owners age 65 or older or terminally or
 101 chronically ill.-

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

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

108 (b) The policy owner requests an accelerated death benefit
 109 under a policy;

110 (c) The insurer sends notice to the policy owner that the
 111 policy may lapse; however, an insurer does not have to provide

112 the notice required under this subsection to a policy owner more
113 than once within a 12-month period after the date of the first
114 notice that the policy may lapse; or

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

117
118 The failure of an insurer to comply with the requirements of
119 this subsection is a deceptive and unfair trade practice as
120 defined in part II of chapter 501, Florida Statutes, and is
121 subject to the penalties and remedies provided therein.

122 (2) The Office of Insurance Regulation, under the
123 direction of the Commissioner of Insurance Regulation, must
124 adopt rules that provide for a written notice that appries a
125 policy owner in lay terms of the alternatives available to
126 prevent the lapse or surrender of a policy and a policy owner's
127 rights relating to the disposition of a policy. The Office of
128 Insurance Regulation shall bear any and all costs associated
129 with the development and adoption of rules under this
130 subsection.

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

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

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

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

138 1. Accelerated death benefits available under the policy
139 or as a rider to the policy;

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140 2. The sale of the policy pursuant to a life settlement
141 contract, including that a life settlement is a regulated
142 transaction in this state;

143 3. The replacement of the policy pursuant to statute,
144 rule, or the terms of the policy;

145 4. The maintenance of the policy pursuant to the terms of
146 the policy, pursuant to a rider to the policy, or through a life
147 settlement contract;

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

151 6. Conversion of the policy from a term policy to a
152 permanent policy; and

153 7. Conversion of the policy in order to obtain long-term
154 care health insurance coverage or a long-term care benefit plan.

155 (d) A statement explaining that life insurance, life
156 settlements, or other alternatives to the lapse or surrender of
157 the policy described in the notice may or may not be available
158 to a particular policy owner depending on a number of
159 circumstances, including, but not limited to, the age and health
160 status of the insured or the terms of a life insurance policy,
161 and that a policy owner should contact his or her financial
162 advisor, insurance agent, broker, or attorney to obtain further
163 advice and assistance.

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