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SENATE BILL 410

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Phil A. Griego

AN ACT

RELATING TO INSURANCE; ENACTING THE LIFE INSURANCE CONSUMER
DISCLOSURE ACT; PROVIDING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. SHORT TITLE.--This act may be cited as the
"Life Insurance Consumer Disclosure Act".

SECTION 2. DEFINITIONS.--As used in the Life Insurance
Consumer Disclosure Act:

A. "insured" means an individual covered by a
policy;

B. "insurer" means the insurance company that
issues a policy;

C. "policy" means an individual life insurance
policy owned by a person who is a resident of New Mexico,
regardless of whether the policy is issued, delivered or

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1 renewed in New Mexico;

2 D. "policy owner" means the owner of a policy; and

3 E. "superintendent" means the superintendent of
4 insurance.

5 SECTION 3. NOTICE TO POLICY OWNER REQUIRED.--

6 A. An insurer shall provide written notice as
7 required by Subsection B of this section to a policy owner if
8 an insured is sixty years of age or older or is known by the
9 insurer to be terminally ill or chronically ill, and:

10 (1) if the policy owner requests the
11 surrender, in whole or in part, of a policy;

12 (2) if the policy owner requests an
13 accelerated death benefit under a policy;

14 (3) if the insurer sends notice to the policy
15 owner that the policy may lapse; provided, however, that the
16 insurer shall not be required to include the notice required by
17 this paragraph to the policy owner more than one time within a
18 twelve-month period from the date of the first notice of lapse
19 of the policy; or

20 (4) at any other time the superintendent may
21 prescribe by rule.

22 B. The superintendent shall develop the written
23 notice, promulgated by rule, to apprise policy owners of
24 alternatives to the lapse or surrender of a policy and of the
25 policy owner's rights as an owner of a policy related to the

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1 disposition of a policy. The notice shall be developed at no
2 cost to insurers or other licensees and shall be written in lay
3 terms.

4 C. The written notice shall contain the following:

5 (1) a statement explaining that life insurance
6 is a critical part of a broader financial plan;

7 (2) a statement explaining that there are
8 alternatives to the lapse or surrender of a policy;

9 (3) a general description of the following
10 alternatives to the lapse or surrender of a policy:

11 (a) accelerated death benefits available
12 under the policy or as a rider to the policy;

13 (b) the assignment of the policy as a
14 gift;

15 (c) the sale of the policy pursuant to a
16 life settlement contract, including that a life settlement is a
17 regulated transaction in this state pursuant to the Viatical
18 Settlements Act;

19 (d) the replacement of the policy
20 pursuant to Title 13, Chapter 9, Part 15 of the New Mexico
21 Administrative Code;

22 (e) the maintenance of the policy
23 pursuant to the terms of the policy or a rider to the policy,
24 or through a life settlement contract;

25 (f) the maintenance of the policy

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1 through loans issued by an insurer or a third party, using the
2 policy or the cash surrender value of the policy as collateral
3 for the loan;

4 (g) conversion of the policy from a term
5 policy to a permanent policy; and

6 (h) conversion of the policy in order to
7 obtain long-term care health insurance coverage or a long-term
8 care benefit plan; and

9 (4) a statement explaining that life
10 insurance, life settlements or other alternatives to the lapse
11 or surrender of the policy described in the notice may or may
12 not be available to a particular policy owner depending on a
13 number of circumstances, including the age and health status of
14 the insured or the terms of a life insurance policy, and that
15 the policy owner should contact the policy owner's financial
16 advisor, insurance agent, broker or attorney to obtain further
17 advice and assistance.

18 **SECTION 4. PENALTIES.**--A violation of Subsection A of
19 Section 3 of the Life Insurance Consumer Disclosure Act
20 constitutes an unfair trade practice pursuant to the Unfair
21 Practices Act.

22 **SECTION 5. EFFECTIVE DATE.**--The effective date of the
23 provisions of this act is July 1, 2011.