

HOUSE BILL No. 5149

November 13, 2013, Introduced by Reps. Cochran, Leonard, Glardon, Goike, Segal and Hovey-Wright and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending section 603 (MCL 500.603), as added by 2003 PA 208.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 603. (1) As used in this section:

2 (a) "Accelerated benefits" means benefits payable under a life
3 insurance contract to a policyowner or certificateholder, during
4 the lifetime of the insured, in anticipation of death or upon the
5 occurrence of specified life-threatening or catastrophic conditions
6 as defined by the policy or rider that reduce the death benefit
7 otherwise payable under the life insurance contract and that are
8 payable upon the occurrence of a single qualifying event that

1 results in the payment of a benefit amount fixed at the time of
2 acceleration. **ACCELERATED BENEFITS DO NOT INCLUDE BENEFITS PAYABLE**
3 **TO AN INSURED UNDER A LONG-TERM CARE INSURANCE POLICY.**

4 (B) "CHRONIC ILLNESS" MEANS A PERMANENT MEDICAL CONDITION THAT
5 RESULTS IN AN INDIVIDUAL BEING UNABLE TO ATTEND TO BASIC PHYSICAL
6 ACTIVITIES SUCH AS EATING, TOILETING, BATHING, GROOMING, DRESSING,
7 OR AMBULATING. CHRONIC ILLNESS ALSO INCLUDES A PERMANENT SEVERE
8 COGNITIVE IMPAIRMENT OR A SIMILAR FORM OF DEMENTIA.

9 (C) ~~(b)~~—"Qualifying event" means 1 or more of the following:

10 (i) A medical condition that would result in a drastically
11 limited life span as specified in the contract.

12 (ii) A medical condition that has required or requires
13 extraordinary medical intervention including, but not limited to,
14 major organ transplant or continuous artificial life support,
15 without which the insured would die.

16 (iii) A condition that usually requires continuous confinement
17 in an eligible institution as defined in the contract if the
18 insured is expected to remain there for the rest of his or her
19 life.

20 (iv) A medical condition that would, in the absence of
21 extensive or extraordinary medical treatment, result in a
22 drastically limited life span. Such conditions may include, but are
23 not limited to, coronary artery disease resulting in an acute
24 infarction or requiring surgery, permanent neurological deficit
25 resulting from cerebral vascular accident, end stage renal failure,
26 acquired immune deficiency syndrome, or other medical conditions
27 that the ~~commissioner~~ **DIRECTOR OF THE DEPARTMENT OF INSURANCE AND**

1 **FINANCIAL SERVICES** has approved for any particular filing.

2 (v) **A CHRONIC ILLNESS.**

3 (vi) ~~(v)~~ Other qualifying events that the ~~commissioner~~ **DIRECTOR**
4 **OF THE DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES** approves for
5 a particular filing.

6 (2) An accelerated benefit rider and a life insurance policy
7 with accelerated benefit provisions are primarily mortality risks
8 rather than morbidity risks and are life insurance benefits subject
9 to all of the following:

10 (a) Chapters 40 and 44.

11 (b) ~~shall~~ **THE RIDER OR PROVISIONS MUST** provide the option to
12 take the benefit as a lump sum and not as an annuity contingent
13 upon the life of the insured.

14 (c) ~~shall~~ **THE RIDER OR PROVISIONS MUST** have no restrictions on
15 the use of the proceeds.

16 (d) If any death benefit remains after payment of an
17 accelerated benefit, ~~shall~~ **THE RIDER OR PROVISIONS MUST** not affect
18 the accidental death benefit provision, if any, by the payment of
19 the accelerated benefit.

20 (e) ~~shall~~ **THE RIDER OR PROVISIONS MUST** include the terminology
21 "accelerated benefit" in the descriptive title and not be described
22 or marketed as long-term care insurance or as providing long-term
23 care benefits. **THIS SUBDIVISION DOES NOT APPLY TO LIFE INSURANCE**
24 **POLICIES OR RIDERS THAT PROVIDE DIRECTLY OR SUPPLEMENT LONG-TERM**
25 **CARE INSURANCE AS DESCRIBED IN SECTION 3901.**

26 (3) Except as otherwise provided **IN THIS SECTION**, the insurer
27 of an accelerated benefit rider or life insurance policy with

1 accelerated benefit provisions is required to obtain from an
2 assignee or irrevocable beneficiary a signed acknowledgment of
3 concurrence for payout ~~prior to~~ **BEFORE** the payment of the
4 accelerated benefit. If the insurer making the accelerated benefit
5 is itself the assignee under the policy, an acknowledgment is not
6 required.

7 (4) An insurer of an accelerated benefit rider or life
8 insurance policy with accelerated benefit provisions shall provide
9 a disclosure statement at the time of application and at the time
10 the accelerated benefit payment request is submitted that receipt
11 of these accelerated benefits may be taxable and that assistance
12 should be sought from a personal tax advisor. The disclosure
13 statement ~~shall~~ **MUST** be prominently displayed on the first page of
14 the policy or rider and any other related documents. If a
15 policyowner or certificateholder of an accelerated benefit rider or
16 life insurance policy with accelerated benefit provisions requests
17 an acceleration, the insurer shall send a statement to the
18 policyowner or certificateholder and irrevocable beneficiary
19 showing any effect that the payment of the accelerated benefit will
20 have on the policy's cash value, accumulation account, death
21 benefit, premium, policy loans, and policy liens. The statement
22 shall disclose that receipt of accelerated benefit payments may
23 adversely affect the recipient's eligibility for medicaid or other
24 government benefits or entitlements ~~,—AND~~ may be taxable ~~,—and~~ that
25 assistance should be sought from a personal tax advisor. If a
26 previous disclosure statement becomes invalid as a result of an
27 acceleration of the death benefit, the insurer shall send a revised

1 disclosure statement to the policyowner or certificateholder and
2 irrevocable beneficiary. If the insurer agrees to accelerate death
3 benefits, the insurer shall issue an amended schedule page to the
4 policyholder to reflect, or shall notify the certificateholder
5 under a group policy of, any new, reduced in-force face amount of
6 the contract.

7 (5) A written disclosure, including, but not necessarily
8 limited to, a brief description of the accelerated benefit and
9 definitions of the conditions or occurrences triggering payment of
10 the benefits shall be given to the applicant for an accelerated
11 benefit rider or life insurance policy with accelerated benefit
12 provisions. The description ~~shall~~**MUST** include an explanation of
13 any effect of the payment of a benefit on the policy's cash value,
14 accumulation account, death benefit, premium, policy loans, and
15 policy liens. For agent solicited insurance, the agent shall
16 provide the disclosure form to the applicant ~~prior to~~**BEFORE** or
17 concurrently with the application. Acknowledgment of the disclosure
18 shall be signed by the applicant and writing agent. For a
19 solicitation by direct response methods, the insurer shall provide
20 the disclosure form to the applicant at the time the policy is
21 delivered, with a notice that a full premium refund ~~shall~~**WILL** be
22 received if the policy is returned to the company within the free
23 look period. For group insurance policies, the disclosure form
24 ~~shall~~**MUST** be contained as part of the certificate of coverage or
25 any related document furnished by the insurer for the
26 certificateholder.

27 (6) If there is a premium or cost of insurance charge, the

insurer shall give the applicant for an accelerated benefit rider or life insurance policy with accelerated benefit provisions a generic illustration numerically demonstrating any effect of the payment of a benefit on the policy's cash value, accumulation account, death benefit, premium, policy loans, and policy liens. For agent solicited insurance, the agent shall provide the illustration to the applicant ~~prior to~~ **BEFORE** or concurrently with the application. For a solicitation by direct response methods, the insurer shall provide the illustration to the applicant at the time the policy is delivered. For group insurance policies, the disclosure form ~~shall~~ **MUST** be contained as part of the certificate of coverage or any related document furnished by the insurer for the certificateholder.

(7) An insurer of an accelerated benefit rider or life insurance policy with accelerated benefit provisions with financing options other than as described in subsection (12)(b) shall disclose to the policyowner any premium or cost of insurance charge for the accelerated benefit. The insurer shall make a reasonable effort to assure that the certificateholder is aware of any additional premium or cost of insurance charge if the certificateholder is required to pay a charge. Upon request of the ~~commissioner~~, **DIRECTOR OF THE DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES**, an insurer shall furnish an actuarial demonstration disclosing the method of arriving at its cost for the accelerated benefit.

(8) The insurer of an accelerated benefit rider or life insurance policy with accelerated benefit provisions shall disclose

1 to the policyowner any administrative expense charge. The insurer
2 shall make a reasonable effort to assure that the certificateholder
3 is aware of any administrative expense charge if the
4 certificateholder is required to pay the charge.

5 (9) An accelerated benefit provision ~~shall be~~ **IS** effective as
6 follows:

7 (a) On the effective date of the policy or rider for
8 accidents.

9 (b) No more than 30 days after the effective date of the
10 policy or rider for illness.

11 (10) The insurer of an accelerated benefit rider or life
12 insurance policy with accelerated benefit provisions may offer a
13 waiver of premium for the accelerated benefit provision ~~in the~~
14 ~~absence of~~ **IF** a regular waiver of premium provision ~~being~~ **IS NOT** in
15 effect. At the time the benefit is claimed, the insurer shall
16 explain any continuing premium requirement to keep the policy in
17 force.

18 (11) An insurer of an accelerated benefit rider or life
19 insurance policy with accelerated benefit provisions shall not
20 unfairly discriminate among insureds with differing qualifying
21 events covered under the policy or among insureds with similar
22 qualifying events covered under the policy. An insurer shall not
23 apply further conditions on the payment of the accelerated benefits
24 other than those conditions specified in the policy or rider.

25 (12) The insurer of an accelerated benefit rider or life
26 insurance policy with accelerated benefit provisions may do any of
27 the following:

1 (a) Require a premium charge or cost of insurance charge for
2 the accelerated benefit if based on sound actuarial principles. For
3 group insurance, the additional cost may also be reflected in the
4 experience rating.

5 (b) Pay a present value of the face amount. The calculation
6 shall be based on any applicable actuarial discount appropriate to
7 the policy design. The interest rate or interest rate methodology
8 used in the calculation shall be based on sound actuarial
9 principles and disclosed in the contract or actuarial memorandum.
10 The maximum interest rate used shall be no greater than the greater
11 of the current yield on 90-day treasury bills or the current
12 maximum statutory adjustable policy loan interest rate.

13 (c) Accrue an interest charge on the amount of the accelerated
14 benefits. The interest rate or interest rate methodology used in
15 the calculation shall be based on sound actuarial principles and
16 disclosed in the contract or actuarial memorandum. The maximum
17 interest rate used shall be no greater than the greater of the
18 current yield on 90-day treasury bills or the current maximum
19 statutory adjustable policy loan interest rate. The interest rate
20 accrued on the portion of the lien that is equal in amount to the
21 cash value of the contract at the time of the benefit acceleration
22 shall be no more than the policy loan interest rate stated in the
23 contract.

24 (13) Except as otherwise provided in this subsection, if an
25 accelerated benefit on an accelerated benefit rider or life
26 insurance policy with accelerated benefit provisions is payable,
27 there shall be no more than a pro rata reduction in the cash value

1 based on the percentage of death benefits accelerated to produce
2 the accelerated benefit payment. Alternatively, the payment of
3 accelerated benefits, any administrative expense charges, any
4 future premiums, and any accrued interest may be considered a lien
5 against the death benefit of the policy or rider and the access to
6 the cash value may be restricted to any excess of the cash value
7 over the sum of any other outstanding loans and the lien. Future
8 access to additional policy loans may be limited to any excess of
9 the cash value over the sum of the lien and any other outstanding
10 policy loans.

11 (14) If payment of an accelerated benefit on an accelerated
12 benefit rider or life insurance policy with accelerated benefit
13 provisions results in a pro rata reduction in the cash value, the
14 payment ~~may~~ **SHALL** not be applied toward repaying an amount greater
15 than a pro rata portion of any outstanding policy loans.

16 (15) For an accelerated benefit rider or life insurance policy
17 with accelerated benefit provisions, a qualified actuary shall
18 describe the accelerated benefits, the risks, the expected costs,
19 and the calculation of statutory reserves in an actuarial
20 memorandum. The insurer shall maintain in its files descriptions of
21 the bases and procedures used to calculate benefits payable. These
22 descriptions and the actuarial memorandum shall be made available
23 for examination by the ~~commissioner~~ **DIRECTOR OF THE DEPARTMENT OF**
24 **INSURANCE AND FINANCIAL SERVICES** upon request.

25 (16) If benefits are provided through the acceleration of
26 benefits under group or individual life policies or riders to an
27 accelerated benefit rider or life insurance policy with accelerated

1 benefit provisions, policy reserves shall be determined in
2 accordance with section 834. All valuation assumptions used in
3 constructing the reserves shall be determined as appropriate for
4 statutory valuation purposes by a member in good standing of the
5 American academy of actuaries. The actuary shall follow both
6 actuarial standards and certification for good and sufficient
7 reserves. Reserves in the aggregate should be sufficient to cover
8 policies upon which no claim has yet arisen and policies upon which
9 an accelerated claim has arisen. For policies and certificates that
10 provide actuarially equivalent benefits, additional reserves do not
11 need to be established. Policy liens and policy loans, including
12 accrued interest, represent assets of the insurer for statutory
13 reporting purposes. For a policy on which the policy lien exceeds
14 the policy's statutory reserve liability, the excess shall be held
15 as a nonadmitted asset.