

Amendment No. 441

Assembly Amendment to Assembly Bill No. 274

(BDR 57-591)

Proposed by: Assembly Committee on Commerce and Labor**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

| ASSEMBLY ACTION | | | | Initial and Date | SENATE ACTION | | | | Initial and Date |
|-----------------|--------------------------|------|--------------------------|------------------|---------------|--------------------------|------|--------------------------|------------------|
| Adopted | <input type="checkbox"/> | Lost | <input type="checkbox"/> | _____ | Adopted | <input type="checkbox"/> | Lost | <input type="checkbox"/> | _____ |
| Concurred In | <input type="checkbox"/> | Not | <input type="checkbox"/> | _____ | Concurred In | <input type="checkbox"/> | Not | <input type="checkbox"/> | _____ |
| Receded | <input type="checkbox"/> | Not | <input type="checkbox"/> | _____ | Receded | <input type="checkbox"/> | Not | <input type="checkbox"/> | _____ |

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

SLP/TMC



Date: 4/19/2011

A.B. No. 274—Revises provisions relating to the payment of the proceeds of any benefits under a life insurance policy. (BDR 57-591)



ASSEMBLY BILL NO. 274—COMMITTEE
ON COMMERCE AND LABOR

MARCH 15, 2011

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to the payment of the proceeds of any benefits under a life insurance policy. (BDR 57-591)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to insurance; establishing provisions regarding the payment of proceeds of any benefit under a policy of life insurance or a policy of group life insurance; requiring certain disclosures by an insurer before offering to pay the proceeds of a policy of life insurance or a policy of group life insurance in the form of a retained asset account; requiring that any balance remaining in a retained asset account be returned to the beneficiary if the beneficiary does not use the account or provide to the insurer a written directive concerning the account in a ~~3~~ 5-year period; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, an insurer is required to pay the proceeds of any benefit under a policy of life insurance or a policy of group life insurance within 30 days after the death of the insured and, if the insurer fails to do so, to pay interest on the proceeds from the date of death to the date of payment. (NRS 688A.410, 688B.190) ~~[Section 1 of this bill requires an insurer to pay the proceeds of any benefit under a policy of life insurance in the form of a lump sum payment unless the beneficiary agrees to receive the proceeds in another form.]~~ **Section 1** ~~[also]~~ of this bill prohibits an insurer from offering to pay the proceeds in the form of a retained asset account unless certain information is disclosed to the beneficiary. Additionally, **section 1** provides that ~~[the insurer or third party administrator of a retained asset account owes a fiduciary duty to the beneficiary and that]~~ any balance remaining in a retained asset account must be returned to the beneficiary if the beneficiary does not use the account or provide to the insurer a written directive concerning the account in a ~~3~~ 5-year period. Finally, **section 1** provides that any violation of **section 1** is an unfair trade practice. **Section 2** of this bill contains similar provisions relating to policies of group life insurance.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 688A of NRS is hereby amended by adding thereto a new section to read as follows:

~~1. [An insurer shall pay the proceeds of any benefits under a policy of life insurance in the form of a lump sum payment unless the beneficiary agrees to receive the proceeds in another form.~~

~~2.] An insurer shall not offer to pay the proceeds of any benefits under a policy of life insurance in the form of a retained asset account unless, at the time that the claim is made, the insurer provides the beneficiary with a clear and comprehensive disclosure regarding retained asset accounts and other options for the payment of the proceeds, including, without limitation:~~

~~(a) A statement that the beneficiary can access the entire proceeds in a retained asset account by depositing a single check or draft; and~~

~~(b) Complete and accurate information regarding:~~

~~(1) Custody of the account;~~

~~(2) Any delays or limitations on accessing funds;~~

~~(3) Fees;~~

~~(4) Interest rates; and~~

~~(5) Whether the proceeds are insured by the Federal Deposit Insurance Corporation.~~

~~3. If a beneficiary chooses to receive payment of the proceeds of any benefits under a policy of life insurance in the form of a retained asset account, the insurer or other third party administrator of the retained asset account has a fiduciary duty and relationship to the beneficiary.} written information concerning the settlement options available under the policy and how the beneficiary may obtain specific details regarding those options.~~

2. An insurer shall, before a beneficiary chooses to receive payment of the proceeds of any benefits under a policy of life insurance in the form of a retained asset account or, if no option is provided, before a retained asset account is established for a beneficiary, provide to the beneficiary:

(a) Written disclosure that the payment of the full benefit amount is accomplished by delivering to the beneficiary a draft book or checkbook, as applicable, for the retained asset account;

(b) Written disclosure that the beneficiary may access the full benefit amount, including interest, of the retained asset account using one draft from the draft book or one check from the checkbook, as applicable;

(c) A statement indicating whether other settlement options are preserved until the entire balance is withdrawn from the retained asset account or the balance of the account drops below a minimum balance required by the insurer;

(d) A statement identifying the retained asset account as either a draft account or a checking account and an explanation of how the account works;

(e) Information concerning the services provided for the retained asset account and contact information for the beneficiary to request and obtain more details about those services;

(f) A description of any fees that may be assessed with regard to the retained asset account;

(g) The frequency with which the beneficiary will receive statements showing the current balance of the retained asset account, interest credited to the account, any drafts or checks, as applicable, written and any other activity on the account;

(h) The minimum interest rate to be credited to the retained asset account and how the actual interest rate will be determined;

(i) A statement that the interest earned on the retained asset account may be taxable;

(j) A statement that the money held in the retained asset account is not guaranteed by the Federal Deposit Insurance Corporation; and

(k) A statement indicating whether the money held in the retained asset account is guaranteed by a health and life guaranty association of a state and the contact information for the National Organization of Life and Health Insurance Guaranty Associations, or its successor organization, to learn about coverage limitations on the account.

3. If a beneficiary receives payment of the proceeds of any benefits under a policy of life insurance in the form of a retained asset account, the insurer shall provide the beneficiary with a supplemental contract that clearly discloses the rights of the beneficiary and the obligations of the insurer with regard to the supplemental contract and the retained asset account.

4. If a beneficiary ~~chooses to receive~~ receives payment of the proceeds of any benefits under a policy of life insurance in the form of a retained asset account, the insurer or other third-party administrator of the retained asset account shall return any balance in the retained asset account to the beneficiary if the account becomes inactive. A retained asset account shall be deemed to be inactive for purposes of this subsection if the beneficiary does not use the account or provide to the insurer a written directive concerning the account during any ~~3~~ continuous 5-year period.

5. Any marketing or use of a retained asset account by an insurer or third-party administrator in violation of this section constitutes an unfair trade practice for the purposes of chapter 686A of NRS.

6. As used in this section, "retained asset account" means any mechanism by which the ~~payment~~ settlement of the proceeds ~~of any benefits~~ payable under a policy of life insurance ~~including, without limitation, the payment of any cash surrender value,~~ is accomplished by the insurer or an entity acting on behalf of the insurer depositing the proceeds into an account with draft- or check-writing privileges where the proceeds are retained by the insurer pursuant to a supplementary contract not involving annuity benefits.

Sec. 2. Chapter 688B of NRS is hereby amended by adding thereto a new section to read as follows:

~~1. An insurer shall pay the proceeds of any benefits under a policy of group life insurance in the form of a lump sum payment unless the beneficiary agrees to receive the proceeds in another form.~~

~~2. An insurer shall not offer to pay the proceeds of any benefits under a policy of group life insurance in the form of a retained asset account unless, at the time that the claim is made, the insurer provides the beneficiary with a clear and comprehensive disclosure regarding retained asset accounts and other options for the payment of the proceeds, including, without limitation:~~

~~(a) A statement that the beneficiary can access the entire proceeds in a retained asset account by depositing a single check or draft; and~~

~~(b) Complete and accurate information regarding:~~

~~(1) Custody of the account;~~

~~(2) Any delays or limitations on accessing funds;~~

~~(3) Fees;~~

~~(4) Interest rates; and~~

~~(5) Whether the proceeds are insured by the Federal Deposit Insurance Corporation.~~

~~3. If a beneficiary chooses to receive payment of the proceeds of any benefits under a policy of group life insurance in the form of a retained asset account, the insurer or other third-party administrator of the retained asset account has a fiduciary duty and relationship to the beneficiary, written information concerning the settlement options available under the policy and how the beneficiary may obtain specific details regarding those options.~~

2. An insurer shall, before a beneficiary chooses to receive payment of the proceeds of any benefits under a policy of group life insurance in the form of a retained asset account or, if no option is provided, before a retained asset account is established for a beneficiary, provide to the beneficiary:

(a) Written disclosure that the payment of the full benefit amount is accomplished by delivering to the beneficiary a draft book or checkbook, as applicable, for the retained asset account;

(b) Written disclosure that the beneficiary may access the full benefit amount, including interest, of the retained asset account using one draft from the draft book or one check from the checkbook, as applicable;

(c) A statement indicating whether other settlement options are preserved until the entire balance is withdrawn from the retained asset account or the balance of the account drops below a minimum balance required by the insurer;

(d) A statement identifying the retained asset account as either a draft account or a checking account and an explanation of how the account works;

(e) Information concerning the services provided for the retained asset account and contact information for the beneficiary to request and obtain more details about those services;

(f) A description of any fees that may be assessed with regard to the retained asset account;

(g) The frequency with which the beneficiary will receive statements showing the current balance of the retained asset account, interest credited to the account, any drafts or checks, as applicable, written and any other activity on the account;

(h) The minimum interest rate to be credited to the retained asset account and how the actual interest rate will be determined;

(i) A statement that the interest earned on the retained asset account may be taxable;

(j) A statement that the money held in the retained asset account is not guaranteed by the Federal Deposit Insurance Corporation; and

(k) A statement indicating whether the money held in the retained asset account is guaranteed by a health and life guaranty association of a state and the contact information for the National Organization of Life and Health Insurance Guaranty Associations, or its successor organization, to learn about coverage limitations on the account.

3. If a beneficiary receives payment of the proceeds of any benefits under a policy of group life insurance in the form of a retained asset account, the insurer shall provide the beneficiary with a supplemental contract that clearly discloses the rights of the beneficiary and the obligations of the insurer with regard to the supplemental contract and the retained asset account.

4. If a beneficiary ~~chooses to receive~~ receives payment of the proceeds of any benefits under a policy of group life insurance in the form of a retained asset account, the insurer or other third-party administrator of the retained asset account shall return any balance in the retained asset account to the beneficiary if the account becomes inactive. A retained asset account shall be deemed to be inactive for purposes of this subsection if the beneficiary does not use the account or provide to the insurer a written directive concerning the account during any ~~12~~ continuous 5-year period.

1 5. Any marketing or use of a retained asset account by an insurer or third-
2 party administrator in violation of this section constitutes an unfair trade practice
3 for the purposes of chapter 686A of NRS.

4 6. As used in this section, "retained asset account" means any mechanism
5 by which the ~~payment~~ settlement of the proceeds ~~of any benefits~~ payable
6 under a policy of group life insurance ~~including, without limitation, the~~
7 ~~payment of any cash surrender value,~~ is accomplished by the insurer or an entity
8 acting on behalf of the insurer depositing the proceeds into an account with
9 draft- or check-writing privileges where the proceeds are retained by the insurer
10 pursuant to a supplementary contract not involving annuity benefits.