

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 718 Session of 2011

INTRODUCED BY MATZIE, CALTAGIRONE, D. COSTA, DeLUCA, FABRIZIO, GEORGE, HALUSKA, JOSEPHS, KORTZ, KOTIK, KULA, MUNDY, MURT, M. O'BRIEN, STABACK AND THOMAS, FEBRUARY 16, 2011

REFERRED TO COMMITTEE ON INSURANCE, FEBRUARY 16, 2011

AN ACT

1 Amending the act of May 17, 1921 (P.L.682, No.284), entitled "An
2 act relating to insurance; amending, revising, and
3 consolidating the law providing for the incorporation of
4 insurance companies, and the regulation, supervision, and
5 protection of home and foreign insurance companies, Lloyds
6 associations, reciprocal and inter-insurance exchanges, and
7 fire insurance rating bureaus, and the regulation and
8 supervision of insurance carried by such companies,
9 associations, and exchanges, including insurance carried by
10 the State Workmen's Insurance Fund; providing penalties; and
11 repealing existing laws," providing for retained asset
12 accounts.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. The act of May 17, 1921 (P.L.682, No.284), known
16 as The Insurance Company Law of 1921, is amended by adding a
17 section to read:

18 Section 413.1. Retained Asset Accounts.--(a) As used in
19 this section the following words and phrases shall have the
20 meanings given to them in this subsection:

21 "Commissioner" means the Insurance Commissioner of the
22 Commonwealth.

1 "Department" means the Insurance Department of the
2 Commonwealth.

3 "Insurer" means a properly licensed life insurance company,
4 association or exchange.

5 "Retained asset account" means a mechanism where the
6 settlement of proceeds payable under a life insurance policy is
7 accomplished by an insurer or entity acting on behalf of the
8 insurer depositing the proceeds into a checking or draft
9 account.

10 (b) An insurer may use a retained asset account as means for
11 settling a claim against a life insurance policy. A retained
12 asset account shall be used as a means for settling a claim
13 against a life insurance policy only if the beneficiary or
14 applicant has expressly consented to or elected to settlement
15 through use of a retained asset account.

16 (c) An insurer shall not use a retained asset account as the
17 following:

18 (1) The sole means for settling a claim against a life
19 insurance policy.

20 (2) The default method for settling a claim against a life
21 insurance policy.

22 (d) Prior to offering a retained asset account as a means
23 for settling a claim against a life insurance policy, the
24 insurer shall provide the beneficiary with a disclosure
25 statement that discloses:

26 (1) Any other settlement options available under the policy.

27 (2) Any interest being paid under other options.

28 (3) Whether the retained asset account is the equivalent of
29 a checking or draft account.

30 (4) An explanation of the account's features, including:

1 (i) What banking services are provided to the account
2 holder.

3 (ii) Which services are provided at no charge and which
4 services involve a fee and the amount of the fee.

5 (iii) The nature and frequency of account statements.

6 (iv) A telephone number and address where the beneficiary
7 can obtain additional information regarding the account.

8 (v) Any minimum or maximum benefit payment requirements
9 under the account.

10 (vi) The number of withdrawals permitted within any time
11 period.

12 (5) That payment of the total proceeds is accomplished by
13 delivery of a checkbook kit or draft kit to the beneficiary.

14 (6) That one check or draft can be written to access the
15 entire proceeds and that other settlement options are preserved
16 until the entire balance is withdrawn or the balance drops below
17 the insurer's minimum payment requirements.

18 (7) Time delays the beneficiary should expect to encounter
19 in completing any authorized transaction under a retained asset
20 account and the anticipated amount of the time delay.

21 (8) That interest earned on the account may be taxable and
22 the beneficiary should consult a tax advisor.

23 (9) The methodology used to determine the interest rate
24 being paid under the retained asset account.

25 (10) Other information as the department may identify.

26 (e) If the beneficiary elects a retained asset account as
27 the means for settling a claim against a life insurance policy,
28 the insurer shall provide a supplemental contract that clearly
29 discloses the rights and obligations of the beneficiary and the
30 insurer regarding the benefit.

1 (f) Upon a determination by hearing that this section has
2 been violated, the commissioner may pursue one or more of the
3 following courses of action:

4 (1) Issue an order requiring the person in violation to
5 cease and desist from engaging in the violation.

6 (2) Suspend or revoke or refuse to issue or renew the
7 certificate or license of the person in violation.

8 (3) Impose a civil penalty of not more than \$5,000 for each
9 violation.

10 (4) Impose any other penalty or remedy deemed appropriate by
11 the commissioner, including restitution.

12 (g) The enforcement remedies imposed under this section are
13 in addition to other remedies or penalties that may be imposed
14 by any other applicable statute, including the act of July 22,
15 1974 (P.L.589, No.205), known as the "Unfair Insurance Practices
16 Act." Violations of this section are deemed and defined by the
17 commissioner to be an unfair method of competition and an unfair
18 or deceptive act or practice under the "Unfair Insurance
19 Practices Act."

20 (h) The department may promulgate regulations necessary to
21 implement this section.

22 Section 2. This act shall take effect in 60 days.