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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO INSURANCE - LIFE INSURANCE POLICIES AND RESERVES

Introduced By: Representative Brian P. Kennedy

Date Introduced: February 28, 2012

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 27-4 of the General Laws entitled "Life Insurance Policies and
2 Reserves" is hereby amended by adding thereto the following section:

3 **27-4-28. Certain insurance provisions prohibited. --** Notwithstanding any provision of
4 law to the contrary contained in any general or public law, rule or regulation:

5 (1) If a policy, contract, certificate, or agreement offered, issued, delivered, or renewed,
6 whether or not in Rhode Island, that provides or funds life insurance, long-term care insurance, or
7 disability insurance coverage for any Rhode Island resident contains a provision that reserves
8 discretionary authority to the insurer, or an agent of the insurer, to determine eligibility for
9 benefits or coverage, to interpret the terms of the policy, contract, certificate, or agreement, or to
10 provide standards of interpretation or review that are inconsistent with the laws of this state, that
11 provision is void and unenforceable.

12 (2) For purposes of this section, "renewed" means continued in force on or after the
13 policy's anniversary date.

14 (3) For purposes of this section, the term "discretionary authority" means a policy
15 provision that has the effect of conferring discretion on an insurer or other claim administrator to
16 determine entitlement to benefits or interpret policy language that, in turn, could lead to a
17 deferential standard of review by any reviewing court.

18 (4) Nothing in this section prohibits an insurer from including a provision in a contract
19 that informs an insured that as part of its routine operations the insurer applies the terms of its

1 contracts for making decisions, including making determinations regarding eligibility, receipt of
2 benefits and claims, or explaining policies, procedures, and processes, so long as the provision
3 could not give rise to a deferential standard of review by any reviewing court.

4 (5) This section applies to both group and individual products.

5 (6) The department of business regulation shall not approve any life or disability policy
6 for issuance or delivery in Rhode Island if it includes a provision that reserves discretionary
7 authority, as defined by subdivision (3), to the insurer, or an agent of the insurer, to determine
8 eligibility for benefits or coverage or to interpret the terms of the policy; or if it provides
9 standards of interpretation or review that are inconsistent with the laws of Rhode Island; or if it
10 contains or incorporates by reference, where the incorporation is otherwise permissible, any grant
11 of authority inconsistent with this section; or if it fails to conform in any respect with any law of
12 Rhode Island.

13 (7) If a life insurance or disability insurance contract, certificate, or agreement contains a
14 provision rendered void and unenforceable by this section, the parties to the policy, contract,
15 certificate, or agreement and the courts shall treat that provision as void and unenforceable.

16 SECTION 2. Chapter 27-18 of the General Laws entitled “Accident and Sickness
17 Insurance Policies” is hereby amended by adding thereto the following section:

18 **27-18-71. Certain insurance provisions prohibited. -- Notwithstanding any provision**
19 **of law to the contrary contained in any general or public law, rule or regulation:**

20 (1) If a policy, contract, certificate, or agreement offered, issued, delivered, or renewed,
21 whether or not in Rhode Island, that provides or funds life insurance, long-term care insurance, or
22 disability insurance coverage for any Rhode Island resident contains a provision that reserves
23 discretionary authority to the insurer, or an agent of the insurer, to determine eligibility for
24 benefits or coverage, to interpret the terms of the policy, contract, certificate, or agreement, or to
25 provide standards of interpretation or review that are inconsistent with the laws of this state, that
26 provision is void and unenforceable.

27 (2) For purposes of this section, “renewed” means continued in force on or after the
28 policy’s anniversary date.

29 (3) For purposes of this section, the term “discretionary authority” means a policy
30 provision that has the effect of conferring discretion on an insurer or other claim administrator to
31 determine entitlement to benefits or interpret policy language that, in turn, could lead to a
32 deferential standard of review by any reviewing court.

33 (4) Nothing in this section prohibits an insurer from including a provision in a contract
34 that informs an insured that as part of its routine operations the insurer applies the terms of its

1 contracts for making decisions, including making determinations regarding eligibility, receipt of
2 benefits and claims, or explaining policies, procedures, and processes, so long as the provision
3 could not give rise to a deferential standard of review by any reviewing court.

4 (5) This section applies to both group and individual products.

5 (6) The department of business regulation shall not approve any life or disability policy
6 for issuance or delivery in Rhode Island if it includes a provision that reserves discretionary
7 authority, as defined by subdivision (3), to the insurer, or an agent of the insurer, to determine
8 eligibility for benefits or coverage or to interpret the terms of the policy; or if it provides
9 standards of interpretation or review that are inconsistent with the laws of Rhode Island; or if it
10 contains or incorporates by reference, where the incorporation is otherwise permissible, any grant
11 of authority inconsistent with this section; or if it fails to conform in any respect with any law of
12 Rhode Island.

13 (7) If a life insurance or disability insurance contract, certificate, or agreement contains a
14 provision rendered void and unenforceable by this section, the parties to the policy, contract,
15 certificate, or agreement and the courts shall treat that provision as void and unenforceable.

16 (8) The provisions of this section apply to chapters 27-18.2, 27-18.5 and 27-18.6.

17 SECTION 3. Chapter 27-34.2 of the General Laws entitled “Long Term Care Insurance”
18 is hereby amended by adding thereto the following section:

19 **27-34.2-22. Certain insurance provisions prohibited. -- Notwithstanding any provision**
20 **of law to the contrary contained in any general or public law, rule or regulation:**

21 (1) If a policy, contract, certificate, or agreement offered, issued, delivered, or renewed,
22 whether or not in Rhode Island, that provides or funds life insurance, long-term care insurance, or
23 disability insurance coverage for any Rhode Island resident contains a provision that reserves
24 discretionary authority to the insurer, or an agent of the insurer, to determine eligibility for
25 benefits or coverage, to interpret the terms of the policy, contract, certificate, or agreement, or to
26 provide standards of interpretation or review that are inconsistent with the laws of this state, that
27 provision is void and unenforceable.

28 (2) For purposes of this section, “renewed” means continued in force on or after the
29 policy’s anniversary date.

30 (3) For purposes of this section, the term “discretionary authority” means a policy
31 provision that has the effect of conferring discretion on an insurer or other claim administrator to
32 determine entitlement to benefits or interpret policy language that, in turn, could lead to a
33 deferential standard of review by any reviewing court.

34 (4) Nothing in this section prohibits an insurer from including a provision in a contract

1 that informs an insured that as part of its routine operations the insurer applies the terms of its
2 contracts for making decisions, including making determinations regarding eligibility, receipt of
3 benefits and claims, or explaining policies, procedures, and processes, so long as the provision
4 could not give rise to a deferential standard of review by any reviewing court.

5 (5) This section applies to both group and individual products.

6 (6) The department of business regulation shall not approve any life or disability policy
7 for issuance or delivery in Rhode Island if it includes a provision that reserves discretionary
8 authority, as defined by subdivision (3), to the insurer, or an agent of the insurer, to determine
9 eligibility for benefits or coverage or to interpret the terms of the policy; or if it provides
10 standards of interpretation or review that are inconsistent with the laws of Rhode Island; or if it
11 contains or incorporates by reference, where the incorporation is otherwise permissible, any grant
12 of authority inconsistent with this section; or if it fails to conform in any respect with any law of
13 Rhode Island.

14 (7) If a life insurance or disability insurance contract, certificate, or agreement contains a
15 provision rendered void and unenforceable by this section, the parties to the policy, contract,
16 certificate, or agreement and the courts shall treat that provision as void and unenforceable.

17 SECTION 4. Chapter 27-62 of the General Laws entitled “Life Insurance Policy
18 Illustration” is hereby amended by adding thereto the following section:

19 **27-62-12. Certain insurance provisions prohibited.** -- Notwithstanding any provision
20 of the law to the contrary contained in any general public law, rule or regulation:

21 (1) If a policy, contract, certificate, or a agreement offered, issued, delivered, or renewed,
22 whether or not in Rhode Island, that provides or funds life insurance, long-term care insurance,
23 or disability insurance coverage for any Rhode island resident contains a provision that reserves
24 discretionary authority to the insurer, or an agent of the insurer, to determine eligibility for
25 benefits or coverage, to interpret the terms of the policy, contract, certificate, or a agreement, or
26 to provide standards of interpretation or review that are inconsistent with the laws of this state,
27 that provision is void and unenforceable.

28 (2) For purposes of this section “renewed” means continued in force on or after the
29 policy’s anniversary date.

30 (3) For the purposes of this section the term “discretionary authority” means a policy
31 provision that has the effect of conferring discretion on an insurer or other claim administrator to
32 determine entitlement to benefits or interpret policy language that, in turn, could lead to a
33 deferential standard of review by any reviewing court.

34 (4) Nothing in this section prohibits an insurer from including a provision in a contract

1 that informs an insured that as part of its routine operations the insurer applies the terms of its
2 contracts for making decisions, including making determinations regarding eligibility, receipt of
3 benefits and claims, or explaining policies, procedures, and processes, so long as the provision
4 could not give rise to a deferential standard of review by any reviewing court.

5 (5) This section applies to both group and individual products.

6 (6) The department of business regulation shall not approve any life or disability policy
7 for issuance or delivery in Rhode island if it includes a provision that reserves discretionary
8 authority, as defined by subdivision (3), to the insurer, or an agent of the insurer, to determine
9 eligibility for benefits or coverage or to interpret the terms of the policy; or if it provides; or if it
10 provides standards of interpretation or review that are inconsistent with the laws of Rhode Island;
11 or if it contains or incorporates by reference, where the incorporation is otherwise permissible,
12 any grant of authority inconsistent with this section; or if it fails to conform in any respect with
13 any law of Rhode Island.

14 (7) If a life insurance or disability insurance contract, certificate, or a agreement contains
15 a provision rendered void and unenforceable by this section, the parties to the policy, contract,
16 certificate, or agreement and the courts shall teat that provision as void and unenforceable.

17 SECTION 5. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO INSURANCE - LIFE INSURANCE POLICIES AND RESERVES

1 This act would provide that if a policy, contract, certificate, or agreement offered, issued,
2 delivered, or renewed, whether or not in Rhode Island that provides, backs up, reinsures or funds,
3 in whole or in part, life insurance, long-term care insurance, or disability insurance coverage for
4 any Rhode Island resident contains a provision that reserves discretionary authority to the insurer,
5 or an agent of the insurer, to determine eligibility for benefits or coverage, to interpret the terms
6 of the policy, contract, certificate, or agreement, or to provide standards of interpretation or
7 review that are inconsistent with the laws of Rhode Island, that provision would be void and
8 unenforceable. The act would define the term “discretionary authority” for these purposes. The
9 act would also require the department of business regulation to disapprove any life, long-term
10 care, or disability policy that contains a provision of this type.

11 This act would take effect upon passage.

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