

HOUSE No. 3659

The Commonwealth of Massachusetts

PRESENTED BY:

Harold P. Naughton, Jr.

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to protect Massachusetts fallen heroes concerning payment options to beneficiaries of servicemembers group life insurance proceeds and disclosures regarding retained asset accounts.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Harold P. Naughton, Jr.</i>	<i>12th Worcester</i>	<i>1/20/2011</i>

HOUSE No. 3659

By Mr. Naughton of Clinton, a petition (accompanied by bill, House, No. 3659) of Harold P. Naughton, Jr. relative to payment options to beneficiaries of servicemembers group life insurance proceeds and disclosures regarding retained asset accounts. Veterans and Federal Affairs.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act to protect Massachusetts fallen heroes concerning payment options to beneficiaries of servicemembers group life insurance proceeds and disclosures regarding retained asset accounts.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Section 108 of Chapter 175, as appearing in the 2008 Official Edition, is hereby amended
2 by adding the following section:

3 Section 108½.

4 SECTION 1. PURPOSE.

5 This Act will require insurer providers for Service members Group Life Insurance (SGLI)
6 to disburse lump-sum payments of SGLI claim proceeds unless the beneficiary provides consent
7 to payment in other forms. If the beneficiary selects an alternate payment method, the insurer is
8 required to provide complete and proper disclosure, transparency, and accountability relating to
9 any method of payment for SGLI death benefits and require that beneficiaries are fully
10 informed—in bold type, not less than 12-point type, and in layman’s language—of the
11 beneficiary’s options.

12 SECTION 2. DEFINITIONS.

13 a. For the purposes of this section, the following terms shall have the following
14 definitions:

15 1. "Policy" means any policy or certificate of life insurance that provides a death benefit.

16 2. "Lump-Sum Payment" means an immediate cash payment discharging further
17 financial obligation of the insurer.

18 3. "Retained Asset Account" means any mechanism whereby the settlement of proceeds
19 payable under a life insurance policy, including, but not limited to, the payment of cash surrender
20 value, is accomplished by the insurer or an entity acting on behalf of the insurer depositing the
21 proceeds into an account, where those proceeds are retained by the insurer, pursuant to a
22 supplementary contract not involving annuity benefits.

23 4. "Service members Group Life Insurance (SGLI)" means any life insurance policy
24 subscribed to by any member of the Armed Forces including Active, Reserve and National
25 Guard, and includes, but is not limited to, programs such as Family SGLI and Traumatic SGLI

26 SECTION 3. GENERAL REQUIREMENTS.

27 a. An insurer shall pay the proceeds of any benefits under a SGLI policy in the form of a
28 lump-sum payment unless the beneficiary agrees to receive the proceeds in another form.

29 b. An insurer shall not offer to pay the proceeds of any benefits under a SGLI policy in
30 the form of a retained asset account unless the insurer provides the beneficiary with a clear and
31 comprehensive disclosure regarding retained asset accounts and other options for the payment of
32 proceeds. Disclosures shall be consistent with Section 5.

33 c. If the beneficiary selects the retained asset account option, the insurer shall, at least
34 annually, obtain affirmative ongoing selection by the beneficiary of the retained asset account
35 option instead of a lump-sum payment as the benefit settlement procedure for the policy.

36 d. The insurer shall provide a monthly account statement to the beneficiary for any month
37 the retained asset account exists

38 SECTION 4. DISCLOSURE REQUIREMENTS.

39 a. A complete listing and clear explanation of all of the SGLI proceeds payment options
40 available to the beneficiary in written or electronic format shall accompany the notification of
41 payment options for other than a lump-sum payment of a life insurance death benefit.

42 b. The use of a retained asset account shall require in the description and explanation
43 pursuant to Subsection 4(a) the following:

44 1. The recommendation to consult a tax, investment, or other financial advisor regarding
45 tax liability and investment options;

46 2. The payment of some or all of the proceeds may be by means of checks delivered to
47 the beneficiary to access the available funds;

48 3. The entire amount of the proceeds are available to the beneficiary by writing a single
49 check;

50 4. The initial interest rate, when and how interest rates may change, and any dividends
51 and other gains that may be paid or distributed to the account holder;

52 5. The total interest earned by the insurer while the proceeds are held in a retained asset
53 account and a clear indication of the difference between the interest earnings by the insurer and
54 the interest earnings by the beneficiary;

55 6. The custodian of the funds or assets of the account;

56 7. The coverage guaranteed by the Federal Deposit Insurance Corporation (FDIC), if any,
57 and the amount of such coverage;

58 i. If there is any portion of the proceeds which are not guaranteed by the FDIC, the
59 insurer shall include the following statement (bold, capital in 12 point type): THIS ACCOUNT
60 IS NOT A BANK PRODUCT AND IS NOT INSURED BY THE FEDERAL DEPOSIT
61 INSURANCE CORPORATION.

62 ii. For that portion which is not covered by the FDIC and such amount exceeds or may
63 exceed the limit of coverage by the Massachusetts Life Insurance and Health Guaranty
64 Association, the insurer, as part of the document in which the affirmative selection by the
65 consumer for the retained asset account option is made, shall include the following statement
66 (bold, capital in 12 point type): IN THE EVENT THAT THE INSURANCE COMPANY
67 FAILS, THE GUARANTY ASSOCIATION COVERAGE WILL NOT PROTECT THE FULL
68 AMOUNT OF THE DEATH BENEFIT IN THE ACCOUNT. YOU MAY WISH TO
69 TRANSFER SOME OR ALL OF THE AMOUNT TO A PROTECTED ACCOUNT IN A
70 DIFFERENT INSTITUTION TO FULLY PROTECT YOUR FUNDS.

71 iii. If the amount of the death benefit is less than or equal to the limit of coverage by the
72 Massachusetts Life and Health Insurance Guaranty Association, the insurer may not inform the
73 beneficiary of this fact.

74 8. The limitations, if any, on the numbers and amounts of withdrawals of funds from the
75 account, including any minimum or maximum benefit payment amounts;

76 9. The services provided for a fee, including a list of the fees or the method of their
77 calculation;

78 10. The insurer or a related party may derive income, in addition to any fees charged on
79 the account, from the total gains received on the investment of the balance of funds in the
80 account.

81 11. The telephone number, address, and other contact information, including website
82 address, to obtain additional information regarding the account; and

83 12. The following statement (bold, capital in 12 point type):, “FOR FURTHER
84 INFORMATION, PLEASE CONTACT THE MASSACHUSETTS DEPARTMENT OF
85 INSURANCE.”

86 SECTION 5. INSURER REPORTING.

87 a. The insurer shall report annually to the Insurance Commissioner, in a form and manner
88 prescribed by said commissioner, the following information for retained asset accounts
89 established for beneficiaries residing in the state:

90 1. The number and aggregate dollar amount of SGLI related retained asset accounts in
91 existence on January first of the calendar year immediately preceding;

92 2. The number and aggregate dollar amount of SGLI related retained assets accounts
93 opened during the calendar year immediately preceding;

94 3. The number and aggregate dollar amount of SGLI related retained asset accounts
95 closed during the calendar year immediately preceding;

96 4. The number and aggregate dollar amount of SGLI related retained asset accounts in
97 existence on December thirty-first of the calendar year immediately preceding;

98 5. The aggregate dollar amount of investment earnings during the calendar year
99 immediately preceding resulting from the investment of SGLI related retained asset accounts;

100 6. The aggregate dollar amount of fees and other charges assessed to SGLI related
101 retained asset accounts during the calendar year immediately preceding;

102 7. A description of the interest rate or rates paid on SGLI related retained asset accounts
103 during the calendar year immediately preceding and the methodology and factors used to
104 determine such rate or rates paid to the beneficiaries of such accounts;

105 8. The number and aggregate dollar amount of SGLI related retained asset accounts that
106 have been in existence for one, three, and five years;

107 9. The identity of any entity or financial institution that administers SGLI related retained
108 asset accounts on the insurance company's behalf;

109 10. Maintain all documents or other evidence of a beneficiary's affirmative selection of a
110 SGLI related retained asset account option for a period ending three years after the retained asset
111 account no longer exists;

112 11. The number and aggregate dollar amount of SGLI related retained asset accounts that
113 were escheated in the calendar year immediately preceding; and,

114 12. Any other information relating to SGLI related retained asset accounts the Insurance
115 Commissioner may require.

116 SECTION 6. ABANDONED PROPERTY.

117 a. Pursuant to the Massachusetts Abandoned Property Law, any proceeds which remain
118 in a SGLI related retained asset account but which have not been drawn on nor has any contact
119 with the beneficiary been effective for a period of thirty-four months, the insurer will have 60
120 days to provide the remaining proceeds to the last-known address of the beneficiary in a single
121 check.

122 SECTION 7. UNFAIR TRADE PRACTICE.

123 a. Failure to meet any requirement of this Act shall be an Unfair and Deceptive Act
124 pursuant to Chapter 93A.

125 b. A beneficiary injured as a result of a violation of any provision of this Act by an
126 insurer may initiate an action to recover actual damages in any court of general equitable
127 jurisdiction in this State.

128 1. The court shall award reasonable attorney fees to a prevailing plaintiff in an action
129 under this section at trial and on appeal. The court may award attorney fees to a prevailing
130 defendant at trial or on appeal only if the court finds there was no objectively reasonable basis
131 for bringing the action or asserting the ground for appeal.

132 c. Notwithstanding any other provision or any other statute providing a limitation on the
133 commencement of an action, an action arising from any act or omission of an insurer or an

134 officer, employee or agent of the insurer within the scope of this Act shall be commenced within
135 two years after the alleged loss or injury.