

HOUSE No. 5130

Text of an amendment, offered by Messrs. Mariano of Quincy and Sannicandro of Ashland, to the Senate Bill ensuring consumer protection in life insurance contracts (Senate, No. 2818). October 27, 2008.

The Commonwealth of Massachusetts

In the Year Two Thousand and Eight.

Striking out all after the enacting clause and inserting in place thereof the following:

1 “SECTION 1. Chapter 175 of the General Laws is hereby
2 amended by striking out section 186 as appearing in the 2006 Offi-
3 cial Edition and inserting in place thereof the following section:—

4 Section 186. (a) No oral or written misrepresentation or warranty
5 made in the negotiation of a policy of insurance by the insured or in
6 his behalf shall be deemed material or defeat or avoid the policy or
7 prevent its attaching unless such misrepresentation or warranty is
8 made with actual intent to deceive, or unless the matter misrepre-
9 sented or made a warranty increased the risk of loss.

10 (b) No oral or written misrepresentation or warranty as to the
11 physical condition or health risks to the physical condition of the
12 insured made in the negotiation of any policy of life or endowment
13 insurance or annuity contract by the insured or on his behalf shall
14 defeat or avoid the policy or prevent its attaching unless such mis-
15 representation or warranty is material and is made with actual intent
16 to deceive or increased the risk of loss. For the purposes of this para-
17 graph, a misrepresentation or warranty shall be deemed material if
18 knowledge or ignorance of it would otherwise have influenced the
19 insurer in making the contract at all, or in estimating the degree and
20 character of the risk, or in fixing the rate of the premium.

1 SECTION 2. Section 186A of said Chapter 175, as so appearing,
2 is hereby amended by adding at the end thereof the following sen-
3 tence:—

4 In any court action based on a life insurance policy in which the
5 good health of the insured at the time the policy becomes effective is

6 at issue, there shall be a presumption that the insured was in good
7 health if the insurer delivered the policy.”.