

1 AN ACT concerning insurance.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Illinois Insurance Code is amended by
5 changing Sections 351A-1, 351A-4, 351A-7, and 351A-8 and
6 adding Sections 351A-9.2 and 351A-9.3 as follows:

7 (215 ILCS 5/351A-1) (from Ch. 73, par. 963A-1)

8 Sec. 351A-1. Definitions. Unless the context requires
9 otherwise, in this Article:

10 (a) "Long-term care insurance" means any accident and
11 health insurance policy or rider advertised, marketed,
12 offered or designed to provide coverage for not less than 12
13 consecutive months for each covered person on an expense
14 incurred, indemnity, prepaid or other basis, for one or more
15 necessary or medically necessary diagnostic, preventive,
16 therapeutic, rehabilitative, maintenance, or personal care
17 services, provided in a setting other than an acute care unit
18 of a hospital. Such term includes group and individual
19 annuities and life insurance policies or riders which provide
20 directly or which supplement long-term care insurance. The
21 term also includes a policy or rider that provides for
22 payment of benefits based upon cognitive impairment or the
23 loss of functional capacity. The term shall also include
24 qualified long-term care insurance contracts. Long-term care
25 insurance may be issued by insurers, fraternal benefit
26 societies, nonprofit health, hospital, and medical service
27 corporations, prepaid health plans, health maintenance
28 organizations or any similar organization to the extent they
29 are otherwise authorized to issue life or health insurance.
30 Long-term care insurance shall not include any insurance
31 policy which is offered primarily to provide basic Medicare

1 supplement coverage, basic hospital expense coverage, basic
2 medical-surgical expense coverage, hospital confinement
3 indemnity coverage, major medical expense coverage,
4 disability income protection coverage, accident only
5 coverage, specified disease or specified accident coverage,
6 or limited benefit health coverage. Long-term care insurance
7 may include benefits for care and treatment in accordance
8 with the tenets and practices of any established church or
9 religious denomination which teaches reliance on spiritual
10 treatment through prayer for healing.

11 (b) "Applicant" means:

12 (1) In the case of an individual long-term care
13 insurance policy, the person who seeks to contract for
14 benefits.

15 (2) In the case of a group long-term care insurance
16 policy, the proposed certificate holder.

17 (c) "Certificate" means, for the purposes of this
18 Article, any certificate issued under a group long-term care
19 insurance policy, which policy has been delivered or issued
20 for delivery in this State.

21 (d) "Director" means the Director of Insurance of this
22 State.

23 (e) "Group long-term care insurance" means a long-term
24 care insurance policy which is delivered or issued for
25 delivery in this State and issued to one of the following:

26 (1) One or more employers or labor organizations,
27 or to a trust or to the trustee or trustees of a fund
28 established by one or more employers or labor
29 organizations, or a combination thereof, for employees or
30 former employees, or a combination thereof, or for
31 members or former members, or a combination thereof, of
32 the labor organizations.

33 (2) Any professional, trade or occupational
34 association for its members or former or retired members,

1 or combination thereof, if such association:

2 (A) is composed of individuals all of whom are
3 or were actively engaged in the same profession,
4 trade or occupation; and

5 (B) has been maintained in good faith for
6 purposes other than obtaining insurance.

7 (3) An association or a trust or the trustee or
8 trustees of a fund established, created or maintained for
9 the benefit of members of one or more associations.
10 Prior to advertising, marketing or offering such policy
11 within this State, the association or associations, or
12 the insurer of the association or associations, shall
13 file evidence with the Director that the association or
14 associations have at the outset a minimum of 100 members
15 and have been organized and maintained in good faith for
16 purposes other than that of obtaining insurance, have
17 been in active existence for at least one year, and have
18 a constitution and by-laws which provide that:

19 (A) the association or associations hold
20 regular meetings not less than annually to further
21 the purposes of the members;

22 (B) except for credit unions, the association
23 or associations collect dues or solicit
24 contributions from members; and

25 (C) the members have voting privileges and
26 representation on the governing board and
27 committees.

28 Thirty days after such filing the association or
29 associations will be deemed to satisfy such
30 organizational requirements, unless the Director makes a
31 finding that the association or associations do not
32 satisfy those organizational requirements.

33 (4) A group other than as described in paragraph
34 (1), (2) or (3) of this subsection (e), subject to a

1 finding by the Director that:

2 (A) the issuance of the group policy is not
3 contrary to the best interest of the public;

4 (B) the issuance of the group policy would
5 result in economies of acquisition or
6 administration; and

7 (C) the benefits are reasonable in relation to
8 the premiums charged.

9 (f) "Policy" means, for the purposes of this Article,
10 any policy, contract, subscriber agreement, rider or
11 endorsement delivered or issued for delivery in this State by
12 an insurer, fraternal benefit society, nonprofit health,
13 hospital, or medical service corporation, prepaid health
14 plan, health maintenance organization or any similar
15 organization.

16 (g) "Qualified long-term care insurance contract" or
17 "federally tax-qualified long-term care insurance contract"
18 means an individual or group insurance contract that meets
19 the requirements of Section 7702B(b) of the Internal Revenue
20 Code of 1986, as amended, as follows:

21 (1) The only insurance protection provided under
22 the contract is coverage of qualified long-term care
23 services. A contract shall not fail to satisfy the
24 requirements of this subparagraph by reason of payments
25 being made on a per diem or other periodic basis without
26 regard to the expenses incurred during the period to
27 which the payments relate.

28 (2) The contract does not pay or reimburse expenses
29 incurred for services or items to the extent that the
30 expenses are reimbursable under Title XVIII of the Social
31 Security Act, as amended, or would be so reimbursable but
32 for the application of a deductible or coinsurance
33 amount. The requirements of this subparagraph do not
34 apply to expenses that are reimbursable under Title XVIII

1 of the Social Security Act only as a secondary payor. A
2 contract shall not fail to satisfy the requirements of
3 this subparagraph by reason of payments being made on a
4 per diem or other periodic basis without regard to the
5 expenses incurred during the period to which the payments
6 relate.

7 (3) The contract is guaranteed renewable within the
8 meaning of Section 7702(B)(b)(C) of the Internal Revenue
9 Code of 1986, as amended.

10 (4) The contract does not provide for a cash
11 surrender value or other money that can be paid,
12 assigned, pledged as collateral for a loan, or borrowed
13 except as provided in subparagraph (5).

14 (5) All refunds of premiums and all policyholder
15 dividends or similar amounts under the contract are to be
16 applied as a reduction in future premiums or to increase
17 future benefits, except that a refund on the event of
18 death of the insured or a complete surrender or
19 cancellation of the contract cannot exceed the aggregate
20 premiums paid under the contract.

21 (6) The contract meets the consumer protection
22 provisions set forth in Section 7702B(g) of the Internal
23 Revenue Code of 1986, as amended.

24 "Qualified long-term care insurance contract" or
25 "federally tax-qualified long-term care insurance contract"
26 also means the portion of a life insurance contract that
27 provides long-term care insurance coverage by rider or as
28 part of the contract and that satisfies the requirements of
29 Sections 7702B(b) and 7702B(e) of the Internal Revenue Code
30 of 1986, as amended.

31 (Source: P.A. 86-384.)

32 (215 ILCS 5/351A-4) (from Ch. 73, par. 963A-4)

33 Sec. 351A-4. Limitation. No long-term care insurance

1 policy may:

2 (1) Be cancelled, nonrenewed or otherwise terminated on
3 grounds of the age or the deterioration of the mental or
4 physical health of the insured individual or certificate
5 holder.

6 (2) Contain a provision establishing a new waiting
7 period in the event existing coverage is converted to or
8 replaced by a new or other form ~~within--the--same--company,~~
9 except with respect to an increase in benefits voluntarily
10 selected by the insured individual or group policyholder.

11 (3) Provide coverage for skilled nursing care only or
12 provide significantly more coverage for skilled care in a
13 facility than coverage for lower levels of care.

14 (Source: P.A. 85-1172; 85-1174; 85-1440.)

15 (215 ILCS 5/351A-7) (from Ch. 73, par. 963A-7)

16 Sec. 351A-7. Right to return.

17 (a) An individual long-term care insurance policyholder
18 shall have the right to return the policy within 30 days of
19 its delivery and to have the premium refunded directly to him
20 or her if, after examination of the policy, the policyholder
21 is not satisfied for any reason. Long-term care insurance
22 policies shall have a notice prominently printed on the first
23 page of the policy or attached thereto stating in substance
24 that the policyholder shall have the right to return the
25 policy within 30 days of its delivery and to have the premium
26 refunded if, after examination of the policy, the
27 policyholder is not satisfied for any reason.

28 (b) A person insured under a long-term care insurance
29 policy or certificate issued pursuant to a direct response
30 solicitation shall have the right to return the policy or
31 certificate within 30 days of its delivery and to have the
32 premium refunded directly to him or her if, after
33 examination, the insured person is not satisfied for any

1 reason. Long-term care insurance policies or certificates
2 issued pursuant to a direct response solicitation shall have
3 a notice prominently printed on the first page of the policy
4 or certificate attached thereto stating in substance that the
5 insured person shall have the right to return the policy or
6 certificate within 30 days of its delivery and to have the
7 premium refunded if, after examination of the policy or
8 certificate, the insured person is not satisfied for any
9 reason. This subsection also applies to denials of
10 applications, and any refund must be made within 30 days of
11 the return or denial.

12 (Source: P.A. 85-1440; 86-384.)

13 (215 ILCS 5/351A-8) (from Ch. 73, par. 963A-8)

14 Sec. 351A-8. Outline of coverage.

15 (a) An outline of coverage shall be delivered to a
16 prospective applicant for long-term care insurance at the
17 time of initial solicitation through means which prominently
18 direct the attention of the recipient to the document and its
19 purpose.

20 (1) The Director shall prescribe a standard format
21 including style, arrangement and overall appearance and
22 the content of an outline of coverage.

23 (2) In the case of agent solicitations, an agent
24 must deliver the outline of coverage prior to the
25 presentation of an application or enrollment form.

26 (3) In the case of direct response solicitations,
27 the outline of coverage must be presented in conjunction
28 with any application or enrollment form.

29 (b) The outline of coverage shall include:

30 (1) A description of the principal benefits and
31 coverage provided in the policy.

32 (2) A statement of the principal exclusions,
33 reductions and limitations contained in the policy.

1 (3) A statement of the terms under which the policy
 2 or certificate, or both, may be continued in force or
 3 discontinued, including any reservation in the policy of
 4 a right to change premium. Continuation or conversion
 5 provisions of group coverage shall be specifically
 6 described.

7 (4) A statement that the outline of coverage is a
 8 summary only, not a contract of insurance, and that the
 9 policy or group master policy contain governing
 10 contractual provisions.

11 (5) A description of the terms under which the
 12 policy or certificate may be returned and premium
 13 refunded.

14 (6) A brief description of the relationship of cost
 15 of care and benefits.

16 (7) A statement that discloses to the policy holder
 17 or certificate holder whether the policy is intended to
 18 be a federally tax-qualified long-term care insurance
 19 contract under 7702B(b) of the Internal Revenue Code of
 20 1986, as amended.

21 (Source: P.A. 85-1440; 86-384.)

22 (215 ILCS 5/351A-9.2 new)

23 Sec. 351A-9.2. Delivery of policy. If an applicant for
 24 a long-term care insurance contract or certificate is
 25 approved, the issuer shall deliver the contract or
 26 certificate of insurance to the applicant no later than 30
 27 days after the date of approval.

28 (215 ILCS 5/351A-9.3 new)

29 Sec. 351A-9.3. Claim denial; explanation. If a claim
 30 under a long-term care insurance contract is denied, the
 31 issuer, within 60 days after receipt of a written request by
 32 a policyholder or certificate holder or a policyholder's or

1 certificate holder's representative shall:

2 (1) provide a written explanation of the reasons
3 for the denial; and

4 (2) make available all information directly related
5 to the denial.

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.