

SECOND REGULAR SESSION

SENATE BILL NO. 583

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CHAMPION.

Pre-filed December 1, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

3574S.011

AN ACT

To repeal sections 375.932, 375.936, 376.1100, and 376.1109, RSMo, and to enact in lieu thereof five new sections relating to the regulation of the insurance market for the protection of senior citizens.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 375.932, 375.936, 376.1100, and 376.1109, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 375.932, 375.936, 376.882, 376.1100, and 376.1109, to read as follows:

375.932. When used in sections 375.930 to 375.948, the following terms mean:

(1) "Cold lead advertising", making use directly or indirectly of a method of marketing that fails to disclose in a clear and conspicuous manner that a purpose of the marketing is insurance sales solicitation and that contact will be made by an insurance producer or insurance company;

(2) "Consultant", an individual, partnership or corporation who, for a fee, holds himself or itself out to the public as engaged in the business of offering any advice, counsel, opinion or service with respect to the benefits, advantages or disadvantages promised under any policy of insurance that could be issued in this state;

[(2)] (3) "Director", the director of the department of insurance, financial institutions and professional registration of this state;

[(3)] (4) "Insurer", any person, reciprocal exchange, interinsurer, Lloyds insurer, fraternal benefit society, and any other legal entity engaged in the business of insurance, including agents, brokers, adjusters and third-party

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 administrators. "Insurer" also includes health services corporations, health
19 maintenance organizations, prepaid limited health care service plans, dental,
20 optometric and other similar health service plans. For purposes of sections
21 375.930 to 375.948 such entities shall be deemed to be engaged in the business
22 of insurance. "Insurer" shall also include all companies organized, incorporated
23 or doing business under the provisions of chapters 325, 375, 376, 377, 378, 379,
24 381 and 383, RSMo;

25 [(4)] (5) "Person", any natural or artificial entity, including, but not
26 limited to, individuals, partnerships, associations, trusts or corporations;

27 [(5)] (6) "Policy", "certificate" or "contract" includes any contract of
28 insurance, indemnity, medical, health or hospital service, suretyship, or annuity
29 issued, proposed for issuance, or intended for issuance by any insurer.

 375.936. Any of the following practices, if committed in violation of section
2 375.934, are hereby defined as unfair trade practices in the business of insurance:

3 (1) "Boycott, coercion, intimidation", entering into any agreement to
4 commit, or by any concerted action committing any act of boycott, coercion or
5 intimidation resulting in or tending to result in an unreasonable restraint of, or
6 monopoly in, the business of insurance;

7 (2) "Defamation", making, publishing, disseminating, or circulating,
8 directly or indirectly, or aiding, abetting or encouraging the making, publishing,
9 disseminating or circulating of any oral or written statement or any pamphlet,
10 circular, article or literature which is false, or maliciously critical of or derogatory
11 to the financial condition of any insurer, and which is calculated to injure such
12 insurer;

13 (3) "Failure to maintain complaint handling procedures", failure of any
14 person to maintain a complete record of all the complaints which it has received
15 for a period of not less than three years. This record shall indicate the total
16 number of complaints, their classification by line of insurance, the nature of each
17 complaint, the disposition of these complaints, and the time it took to process
18 each complaint. For purposes of this subdivision, "complaint" shall mean any
19 written communication primarily expressing a grievance;

20 (4) "False information and advertising generally", making, publishing,
21 disseminating, circulating or placing before the public, or causing, directly or
22 indirectly, to be made, published, disseminated, circulated, or placed before the
23 public, in a newspaper, magazine or other publication, or in the form of a notice,
24 circular, pamphlet, letter or poster or over any radio or television station, or in

25 any other way, an advertisement, announcement or statement containing any
26 assertion, representation or statement with respect to the business of insurance
27 or with respect to any insurer in the conduct of his insurance business, which is
28 untrue, deceptive or misleading;

29 (5) "False statements and entries:"

30 (a) Knowingly filing with any supervisory or other public official, or
31 knowingly making, publishing, disseminating, circulating or delivering to any
32 person, or placing before the public, or knowingly causing, directly or indirectly,
33 to be made, published, disseminated, circulated, delivered to any person, or
34 placed before the public, any false material statement of fact as to the financial
35 condition or dealings of an insurer;

36 (b) Knowingly making any false entry of a material fact in any book,
37 report or statement of any insurer or knowingly omitting to make a true entry of
38 any material fact pertaining to the business of such insurer in any book, report
39 or statement of such insurer;

40 (6) "Misrepresentations and false advertising of insurance policies",
41 making, issuing, circulating, or causing to be made, issued or circulated, any
42 estimate, illustrations, circular or statement, sales presentation, omission, or
43 comparison which:

44 (a) Misrepresents the benefits, advantages, conditions, or terms of any
45 policy;

46 (b) Misrepresents the dividends or share of the surplus to be received on
47 any policy;

48 (c) Makes any false or misleading statements as to the dividends or share
49 of surplus previously paid on any policy;

50 (d) Is misleading or is a misrepresentation as to the financial condition
51 of any insurer, or as to the legal reserve system upon which any life insurer
52 operates;

53 (e) Uses any name or title of any policy or class of policies
54 misrepresenting the true nature thereof;

55 (f) Is a misrepresentation for the purpose of inducing or tending to induce
56 the purchase, lapse, forfeiture, exchange, conversion, or surrender of any policy,
57 including any intentional misquote of a premium rate;

58 (g) Is a misrepresentation for the purpose of effecting a pledge or
59 assignment of or effecting a loan against any policy; or

60 (h) Misrepresents any policy as being shares of stock;

61 (7) "Misrepresentation in insurance applications", making false or
62 fraudulent statements or representations on or relative to an application for a
63 policy, for the purpose of obtaining a fee, commission, money, or other benefit
64 from any insurer, agent, agency, broker or other person;

65 (8) "Prohibited group enrollments", no insurer shall offer more than one
66 group contract of insurance through any person unless such person is licensed
67 pursuant to law; however, this prohibition shall not apply to employer-employee
68 relationships, nor to any such enrollments;

69 (9) "Rebates":

70 (a) Except as otherwise expressly provided by law, knowingly permitting
71 or offering to make or making any contract of life insurance, life annuity, accident
72 and health insurance or other insurance, or agreement as to such contract other
73 than as plainly expressed in the insurance contract issued thereon, or paying or
74 allowing, or giving or offering to pay, allow, or give, directly or indirectly, as
75 inducement to such insurance or annuity, any rebate of premiums payable on the
76 contract, or any special favor or advantage in the dividends or other benefits
77 thereon, or any valuable consideration or inducement whatever not specified in
78 the contract; or giving, or selling, or purchasing or offering or to give, sell, or
79 purchase as inducement to such insurance contract or annuity or in connection
80 therewith, any stocks, bonds or other securities of any insurance company or
81 other corporation, association, or partnership, or any dividends or profits accrued
82 thereon, or anything of value whatsoever not specified in the contract;

83 (b) Nothing in subdivision (11) or paragraph (a) of this subdivision shall
84 be construed as including within the definition of discrimination or rebates any
85 of the following practices:

86 a. In the case of any contract of life insurance or life annuity, paying
87 bonuses to nonparticipating policyholders or otherwise abating their premiums
88 in whole or in part out of surplus accumulated from nonparticipating insurance;
89 provided that any such bonuses or abatement of premiums shall be fair and
90 equitable to policyholders and for the best interest of the company and its
91 policyholders;

92 b. In the case of life insurance policies issued on the industrial debit plan,
93 making allowance to policyholders who have continuously for a specified period
94 made premium payments directly to an office of the insurer in an amount which
95 fairly represents the saving in collection expenses;

96 c. Readjustment of the rate of premium for a group insurance policy based

97 on the loss or expense experience thereunder, at the end of the first or any
98 subsequent policy year of insurance thereunder, which may be made retroactive
99 only for such policy year;

100 (10) "Stock operations and advisory board contracts", issuing or delivering
101 or permitting agents, officers or employees to issue or deliver, agency company
102 stock or other capital stock, or benefit certificates or shares in any common law
103 corporation, or securities or any special or advisory board contracts or other
104 contracts of any kind promising returns and profits as an inducement to
105 insurance;

106 (11) "Unfair discrimination":

107 (a) Making or permitting any unfair discrimination between individuals
108 of the same class and equal expectation of life in the rates charged for any
109 contract of life insurance or of life annuity or in the dividends or other benefits
110 payable thereon, or in any other of the terms and conditions of such contract;

111 (b) Making or permitting any unfair discrimination between individuals
112 of the same class and of essentially the same hazard in the amount of premium,
113 policy fees, or rates charged for any policy or contract of accident or health
114 insurance or in the benefits payable thereunder, or in any of the terms or
115 conditions of such contract, or in any other manner whatever, including any
116 unfair discrimination by not permitting the insured full freedom of choice in the
117 selection of any duly licensed physician, surgeon, optometrist, chiropractor,
118 dentist, psychologist, pharmacist, pharmacy, or podiatrist; except that the terms
119 of this paragraph shall not apply to health maintenance organizations licensed
120 pursuant to chapter 354, RSMo;

121 (c) Making or permitting any unfair discrimination between individuals
122 or risks of the same class and of essentially the same hazards by refusing to
123 issue, refusing to renew, canceling or limiting the amount of insurance coverage
124 on a property or casualty risk because of the geographic location of the risk;

125 (d) Making or permitting any unfair discrimination between individuals
126 or risks of the same class and of essentially the same hazards by refusing to
127 issue, refusing to renew, canceling or limiting the amount of insurance coverage
128 on a residential property risk, or the personal property contained therein, because
129 of the age of the residential property;

130 (e) Refusing to insure, refusing to continue to insure, or limiting the
131 amount of coverage available to an individual because of the gender or marital
132 status of the individual; however, nothing in this paragraph shall prohibit an

133 insurer from taking marital status into account for the purpose of defining
134 persons eligible for dependent benefits;

135 (f) Refusing to insure solely because another insurer has refused to issue
136 a policy, or has canceled or has refused to renew an existing policy for which that
137 person was the named insured, nor shall any insurance company or its agent or
138 representative require any applicant or policyholder to divulge in a written
139 application or otherwise whether any insurer has canceled or refused to renew or
140 issue to the applicant or policyholder a policy of insurance, provided that an
141 insurer may require the name of the prior carrier in order to verify the
142 applicant's previous claims or medical history;

143 (g) Canceling or refusing to insure or refusing to continue to insure a
144 policy solely because of race, gender, color, creed, national origin, or ancestry of
145 anyone who is or seeks to become insured;

146 (h) Terminating, or modifying coverage or refusing to issue or refusing to
147 renew any property or casualty policy or contract of insurance solely because the
148 applicant or insured or any employee of either is mentally or physically impaired;
149 except that this paragraph shall not apply to accident and health insurance sold
150 by a casualty insurer and, in addition, this paragraph shall not be interpreted to
151 modify any other provision of law relating to the termination, modification,
152 issuance or renewal of any insurance policy or contract;

153 (i) The provisions of paragraphs (c), (d), (e), (f), (g), and (h) of this
154 subdivision shall not apply if:

155 a. The refusal, cancellation, limitation, termination or modification is for
156 a business purpose which is not a mere pretext for unfair discrimination, or

157 b. The refusal, cancellation, limitation, termination or modification is
158 required by law or regulatory mandate;

159 (12) "Unfair financial planning practices", an insurance producer, agent,
160 broker or consultant:

161 (a) Holding himself out, directly or indirectly, to the public as a financial
162 planner, investment adviser, financial consultant, financial counselor, or any
163 other specialist engaged in the business of giving financial planning or advice
164 relating to investments, insurance, real estate, tax matters, or trust and estate
165 matters when such person is in fact engaged only in the sale of policies; provided,
166 however, an insurance producer, agent, broker or consultant who has passed a
167 professional course of study may use the symbol of the professional designation
168 on his or her business card or stationery;

169 (b) Engaging in the business of financial planning without disclosing to
170 the client prior to the execution of the agreement provided for in paragraph (c)
171 of this subdivision or solicitation of the sale of a product or service that:

172 a. He is also an insurance salesperson; and

173 b. That a commission for the sale of an insurance product will be received
174 in addition to a fee for financial planning, if such is the case. The disclosure
175 requirement under this paragraph may be met by including it in any disclosure
176 required by federal or state securities law;

177 (c) Charging fees, other than commissions, for financial planning by
178 insurance agents, brokers or consultants, unless such fees are based upon a
179 written agreement, which is signed by the party to be charged in advance of the
180 performance of the services under the agreement. A copy of the agreement shall
181 be provided to the party to be charged at the time the agreement is signed by the
182 party and:

183 a. The services for which the fee is to be charged must be specifically
184 stated in the agreement;

185 b. The amount of the fee to be charged or how it will be determined or
186 calculated must be specifically stated in the agreement;

187 c. The agreement must state that the client is under no obligation to
188 purchase any insurance product through the insurance agent, broker or
189 consultant. The insurance agent, broker or consultant shall retain a copy of the
190 agreement for not less than three years after completion of services, and a copy
191 shall be available to the director upon request;

192 (13) Any violation of section 375.445;

193 **(14) "Unfair solicitation methods", an insurance company,**
194 **producer, agent, broker, or consultant:**

195 **(a) Selling, soliciting, or negotiating the purchase of Medicare**
196 **products in this state through the use of cold lead advertising;**

197 **(b) Using an appointment that was made to discuss Medicare**
198 **products or to solicit the sale of Medicare products in order to solicit**
199 **sales of life insurance, health insurance, or annuity products unless the**
200 **consumer requests such solicitation and the products to be discussed**
201 **are clearly identified to the consumer in writing at least forty-eight**
202 **hours in advance of the appointment;**

203 **(c) Soliciting the sale of Medicare products door-to-door prior to**
204 **or without receiving an invitation or request from a consumer; and**

205 **(d) Soliciting the sale of Medicare products in a manner which**
206 **would violate any marketing requirements, models, or guidelines**
207 **established, promulgated or published by the Centers for Medicare and**
208 **Medicaid Services or "CMS";**
209 **"Medicare products" referenced in this subdivision include Medicare**
210 **Part A, Medicare Part B, Medicare Part C, also known as Medicare**
211 **Advantage, Medicare Part D, and Medicare supplement plans.**

376.882. If a Medicare supplement policy issued, delivered, or
2 **renewed in this state on or after January 1, 2011, is cancelled for any**
3 **reason, the insurer shall refund the unearned portion of any premium**
4 **paid beyond the month in which the cancellation is effective. Any**
5 **refund shall be returned to the policyholder within twenty days of the**
6 **last day of coverage under said policy.**

 376.1100. 1. Sections 376.1100 to 376.1130 may be known and cited as
2 the "Long-term Care Insurance Act".

3 2. As used in sections 376.1100 to 376.1130, unless the context requires
4 otherwise, the following terms mean:

5 (1) "Applicant":

6 (a) In the case of an individual long-term care insurance policy, the person
7 who seeks to contract for benefits; and

8 (b) In the case of a group long-term care insurance policy, the proposed
9 certificate holder;

10 (2) "Certificate", any certificate issued under a group long-term care
11 insurance policy, which policy has been delivered or issued for delivery in this
12 state;

13 (3) "Director", the director of the department of insurance, financial
14 institutions and professional registration of this state;

15 (4) "Group long-term care insurance", a long-term care insurance policy
16 which is delivered or issued for delivery in this state and issued to:

17 (a) One or more employers or labor organizations, or to a trust or to the
18 trustees of a fund established by one or more employers or labor organizations,
19 or a combination thereof, for employees or former employees or a combination
20 thereof or for members or former members or a combination thereof, of the labor
21 organization; or

22 (b) Any professional, trade or occupational association for its members or
23 former or retired members, or combination thereof, if such association;

24 a. Is composed of individuals all of whom are or were actively engaged in
25 the same profession, trade or occupation; and

26 b. Has been maintained in good faith for purposes other than obtaining
27 insurance; or

28 (c) An association or a trust or the trustee of a fund established, created
29 or maintained for the benefit of members of one or more associations. Prior to
30 advertising, marketing or offering such policy within this state, the association
31 or associations, or the insurer of the association or associations, shall file
32 evidence with the director that the association or associations have at the outset
33 a minimum of one hundred persons and have been organized and maintained in
34 good faith for purposes other than that of obtaining insurance; have been in
35 active existence for at least one year; and have a constitution and bylaws which
36 provide that:

37 a. The association or associations hold regular meetings not less than
38 annually to further purposes of the members;

39 b. Except for credit unions, the association or associations collect dues or
40 solicit contributions from members; and

41 c. The members have voting privileges and representation on the
42 governing board and committees. Thirty days after such filing the association or
43 associations shall be deemed to satisfy such organizational requirements, unless
44 the director makes a finding that the association or associations do not satisfy
45 those organizational requirements;

46 (d) A group other than as described in paragraph (a), (b) or (c) of
47 subdivision (4) of this subsection, subject to a finding by the director that:

48 a. The issuance of the group policy is not contrary to the best interest of
49 the public;

50 b. The issuance of the group policy would result in economies of
51 acquisition or administration; and

52 c. The benefits are reasonable in relation to the premiums charged;

53 (5) "Long-term care insurance", any insurance policy or rider advertised,
54 marketed, offered or designed to provide coverage for not less than twelve
55 consecutive months for each covered person on an expense-incurred, indemnity,
56 prepaid or other basis; for one or more necessary or medically necessary
57 diagnostic, preventive, therapeutic, rehabilitative, maintenance of personal care
58 services, provided in a setting other than an acute care unit of a hospital. Such
59 term includes group and individual annuities and life insurance policies or riders

60 which provide directly or which supplement long-term care insurance. Such term
61 also includes a policy or rider which provides for payment of benefits based upon
62 cognitive impairment or the loss of functional capacity. Long-term care insurance
63 also includes qualified long-term care insurance contracts. Long-term care
64 insurance may be issued by insurers; fraternal benefit societies; health services
65 corporations; prepaid health plans; health maintenance organizations, or any
66 similar organization to the extent they are otherwise authorized to issue life or
67 health insurance. Long-term care insurance shall not include any insurance
68 policy which is offered primarily to provide basic Medicare supplement coverage,
69 basic hospital expense coverage, basic medical-surgical expense coverage, hospital
70 confinement indemnity coverage, major medical expense coverage, disability
71 income or related asset protection coverage, accident only coverage, specified
72 disease or specified accident coverage, or limited benefit health coverage. With
73 respect or regard to life insurance, long-term care insurance does not include life
74 insurance policies that accelerate the death benefit specifically for one or more
75 of the qualifying events of terminal illness, medical conditions requiring
76 extraordinary medical intervention, or permanent institutional confinement, and
77 that provide the option of a lump sum payment for those benefits and neither the
78 benefits nor the eligibility for the benefits is conditioned upon the receipt of
79 long-term care. Notwithstanding any other provision of sections 376.1100 to
80 376.1130 to the contrary, any product advertised, marketed, or offered as
81 long-term care insurance shall be subject to the provisions of sections 376.1100
82 to 376.1130;

83 (6) "Policy", any policy, subscriber agreement, rider or endorsement
84 delivered or issued for delivery in this state by an insurer; fraternal benefit
85 society; health services corporation; prepaid health plan, health maintenance
86 organization, or any similar organization;

87 (7) "Qualified long-term care insurance contract" or "federally
88 tax-qualified long-term care insurance contract", the portion of a life insurance
89 contract that provides long-term care insurance coverage by rider or as part of the
90 contract that satisfies the requirements of Section 7702B(b) and (e) of the
91 Internal Revenue Code of 1986, as amended. "Qualified long-term care insurance
92 contract" also includes an individual or group insurance contract that meets the
93 requirements of Section 7702B(b) of the Internal Revenue Code of 1986, as
94 amended, as follows:

95 (a) The only insurance protection provided under the contract is coverage

96 of qualified long-term care services. A contract shall not fail to satisfy the
97 requirements of this paragraph by reason of payments being made on a per diem
98 or other periodic basis without regard to the expenses incurred during the period
99 to which the payments relate;

100 (b) The contract does not pay or reimburse expenses incurred for services
101 or items to the extent that the expenses are reimbursable under Title XVIII of the
102 Social Security Act, as amended, or would be so reimbursable but for the
103 application of a deductible or coinsurance amount. The requirements of this
104 paragraph do not apply to expenses that are reimbursable under Title XVIII of
105 the Social Security Act only as a secondary payor. A contract shall not fail to
106 satisfy the requirements of this paragraph by reason of payments being made on
107 a per diem or other periodic basis without regard to the expenses incurred during
108 the period to which the payments relate;

109 (c) The contract is guaranteed renewable within the meaning of Section
110 7702B(b)(1)(C) of the Internal Revenue Code of 1986, as amended;

111 (d) The contract does not provide for a cash surrender value or other
112 money that can be paid, assigned, pledged as collateral for a loan, or borrowed
113 except as provided in paragraph (e) of this subdivision;

114 (e) [All refunds of premiums and all policyholder dividends or similar
115 amounts under the contract are to be applied as a reduction in future premiums
116 or to increase future benefits; except that a refund on the event of death of the
117 insured or a complete surrender or cancellation of the contract shall not exceed
118 the aggregate premiums paid under the contract] **If a long-term care**
119 **insurance policy issued, delivered, or renewed in this state on or after**
120 **January 1, 2011, is cancelled for any reason, the insurer shall refund**
121 **the unearned portion of any premium paid beyond the month in which**
122 **the cancellation is effective. Any refund shall be returned to the policy**
123 **holder within twenty days of the last day of coverage under said policy;**
124 and

125 (f) The contract meets the consumer protection provisions set forth in
126 Section 7702B(g) of the Internal Revenue Code of 1986, as amended.

376.1109. 1. The director may adopt regulations that include standards
2 for full and fair disclosure setting forth the manner, content and required
3 disclosures for the sale of long-term care insurance policies, terms of renewability,
4 initial and subsequent conditions of eligibility, nonduplication of coverage
5 provisions, coverage of dependents, preexisting conditions, termination of

6 insurance, continuation or conversion, probationary periods, limitations,
7 exceptions, reductions, elimination periods, requirements for replacement,
8 recurrent conditions and definitions of terms. Regulations adopted pursuant to
9 sections 376.1100 to 376.1130 shall be in accordance with the provisions of
10 chapter 536, RSMo.

11 2. No long-term care insurance policy may:

12 (1) Be canceled, nonrenewed or otherwise terminated on the grounds of
13 the age or the deterioration of the mental or physical health of the insured
14 individual or certificate holder; or

15 (2) Contain a provision establishing a new waiting period in the event
16 existing coverage is converted to or replaced by a new or other form within the
17 same company, except with respect to an increase in benefits voluntarily selected
18 by the insured individual or group policyholder; or

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

21 3. No long-term care insurance policy or certificate other than a policy or
22 certificate thereunder issued to a group as defined in paragraph (a) of subdivision
23 (4) of subsection 2 of section 376.1100:

24 (1) Shall use a definition of preexisting condition which is more restrictive
25 than the following: "Preexisting condition" means a condition for which medical
26 advice or treatment was recommended by, or received from, a provider of health
27 care services, within six months preceding the effective date of coverage of an
28 insured person;

29 (2) May exclude coverage for a loss or confinement which is the result of
30 a preexisting condition unless such loss or confinement begins within six months
31 following the effective date of coverage of an insured person.

32 4. The director may extend the limitation periods set forth in subdivisions
33 (1) and (2) of subsection 3 of this section as to specific age group categories in
34 specific policy forms upon findings that the extension is in the best interest of the
35 public.

36 5. The definition of preexisting condition provided in subsection 3 of this
37 section does not prohibit an insurer from using an application form designed to
38 elicit the complete health history of an applicant, and, on the basis of the answers
39 on that application, from underwriting in accordance with that insurer's
40 established underwriting standards. Unless otherwise provided in the policy or
41 certificate, a preexisting condition, regardless of whether it is disclosed on the

42 application, need not be covered until the waiting period described in subdivision
43 (2) of subsection 3 of this section expires. No long-term care insurance policy or
44 certificate may exclude or use waivers or riders of any kind to exclude, limit or
45 reduce coverage or benefits for specifically named or described preexisting
46 diseases or physical conditions beyond the waiting period described in subdivision
47 (2) of subsection 3 of this section.

48 6. No long-term care insurance policy may be delivered or issued for
49 delivery in this state if such policy:

50 (1) Conditions eligibility for any benefits on a prior hospitalization
51 requirement; or

52 (2) Conditions eligibility for benefits provided in an institutional care
53 setting on the receipt of a higher level of institutional care; or

54 (3) Conditions eligibility for any benefits other than waiver of premium,
55 post-confinement, post-acute care or recuperative benefits on a prior
56 institutionalization requirement.

57 7. A long-term care insurance policy containing post-confinement,
58 post-acute care or recuperative benefits shall clearly label in a separate
59 paragraph of the policy or certificate entitled "Limitations or Conditions on
60 Eligibility for Benefits" such limitations or conditions, including any required
61 number of days of confinement.

62 8. A long-term care insurance policy or rider which conditions eligibility
63 of noninstitutional benefits on the prior receipt of institutional care shall not
64 require a prior institutional stay of more than thirty days.

65 9. No long-term care insurance policy or rider which provides benefits only
66 following institutionalization shall condition such benefits upon admission to a
67 facility for the same or related conditions within a period of less than thirty days
68 after discharge from the institution.

69 10. The director may adopt regulations establishing loss ratio standards
70 for long-term care insurance policies provided that a specific reference to
71 long-term care insurance policies is contained in the regulation.

72 11. Long-term care insurance applicants shall have the right to return the
73 policy or certificate within thirty days of its delivery and to have the premium
74 refunded if, after examination of the policy or certificate, the applicant is not
75 satisfied for any reason. Long-term care insurance policies and certificates shall
76 have a notice prominently printed on the first page or attached thereto stating
77 in substance that the applicant shall have the right to return the policy or

78 certificate within thirty days of its delivery and to have the premium refunded
79 if, after examination of the policy or certificate, other than a certificate issued
80 pursuant to a policy issued to a group defined in paragraph (a) of subdivision (4)
81 of subsection 2 of section 376.1100, the applicant is not satisfied for any
82 reason. This subsection shall also apply to denials of applications and any refund
83 must be made within thirty days of the return or denial.

84 **12. If a long-term care insurance policy issued, delivered, or**
85 **renewed in this state on or after January 1, 2011, is cancelled for any**
86 **reason, the insurer shall refund the unearned portion of any premium**
87 **paid beyond the month in which the cancellation is effective. Any**
88 **refund shall be returned to the policyholder within twenty days of the**
89 **last day of coverage under said policy. Long-term care insurance**
90 **policies and certificates shall have a notice prominently printed on the**
91 **first page or attached thereto stating in substance that the applicant**
92 **shall be entitled to a refund of the unearned premium if the policy is**
93 **cancelled for any reason.**

Bill ✓

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