

## SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 288

AN ACT

To repeal sections 135.096 and 376.1109, RSMo, and to enact in lieu thereof three new sections relating to insurance.

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

Section A. Sections 135.096 and 376.1109, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 135.096, 135.098, and 376.1109, to read as follows:

135.096. 1. In order to promote personal financial responsibility for long-term health care in this state, [for all taxable years beginning after December 31, 1999, a resident individual may deduct from such individual's Missouri taxable income an amount equal to fifty percent of all nonreimbursed amounts paid by such individual for qualified long-term care insurance premiums to the extent such amounts are not included the individual's itemized deductions.] for all taxable years beginning after December 31, [2006] 2020, a resident individual may deduct from each individual's Missouri taxable income an amount equal to one hundred percent of all nonreimbursed amounts paid by such individuals for qualified long-term care insurance premiums to the extent such amounts are not included in the individual's itemized deductions. A married individual filing a Missouri income tax return separately from his or her spouse shall be allowed to make a deduction pursuant to this section in an amount equal to the proportion of such individual's payment of all qualified long-term care insurance premiums. The director of the department of

revenue shall place a line on all Missouri individual income tax returns for the deduction created by this section.

2. For purposes of this section, "qualified long-term care insurance" means any insurance policy which meets or exceeds the provisions of sections 376.1100 to 376.1118 and the rules and regulations promulgated pursuant to such sections for long-term care insurance, or any insurance policy considered an asset or resource for purposes of eligibility for long-term care benefits under MO HealthNet.

3. Notwithstanding any other provision of law to the contrary, two or more insurers issuing a qualified long-term care insurance policy shall not act in concert with each other and with others with respect to any matters pertaining to the making of rates or rating systems.

135.098. 1. As used in this section, the following terms shall mean:

(1) "Department", the Missouri department of revenue;

(2) "Qualified long-term care insurance", any insurance policy which meets or exceeds the provisions of sections 376.1100 to 376.1118 and the rules and regulations promulgated pursuant to such sections for long-term care insurance, or any insurance policy considered an asset or resource for purposes of eligibility for long-term care benefits under MO HealthNet;

(3) "Tax credit", a credit against the tax otherwise due under chapter 143, excluding withholding tax imposed under sections 143.191 to 143.265;

(3) "Taxpayer", an individual subject to the state income tax imposed by the provisions of chapter 143, excluding withholding tax imposed under sections 143.191 to 143.265.

2. For all tax years beginning on or after January 1, 2022, in addition to the deduction allowed pursuant to

section 135.096, a taxpayer shall be allowed a tax credit in an amount equal to one hundred percent of up to one thousand dollars of nonreimbursed amounts paid by such individual for qualified long-term care insurance premiums during the tax year for which the tax credit is claimed, and fifty percent of any nonreimbursed amounts in excess of one thousand dollars paid by such individual for qualified long-term care insurance premiums during the tax year for which the tax credit is claimed. If the amount of the tax credit exceeds the taxpayer's state tax liability, the difference shall be refundable. Tax credits authorized pursuant to this section shall not be transferred, sold, or assigned.

3. The tax credit allowed by this section shall be claimed by such taxpayer at the time such taxpayer files a return and shall be applied against the income tax liability imposed by chapter 143 after reduction for all other credits allowed thereon. The department may require any documentation it deems necessary to implement the provisions of this section.

4. The department shall promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2021, shall be invalid and void.

376.1109. 1. The director may adopt regulations that include standards for full and fair disclosure setting forth the manner, content and required disclosures for the sale of long-term care insurance policies, terms of renewability, initial and subsequent conditions of eligibility, nonduplication of coverage provisions, coverage of dependents, preexisting conditions, termination of insurance, continuation or conversion, probationary periods, limitations, exceptions, reductions, elimination periods, requirements for replacement, recurrent conditions and definitions of terms. Regulations adopted pursuant to sections 376.1100 to 376.1130 shall be in accordance with the provisions of chapter 536.

2. No long-term care insurance policy may:

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

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

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

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

(1) Shall use a definition of preexisting condition which is more restrictive than the following: "Preexisting condition" means a condition for which medical advice or

treatment was recommended by, or received from, a provider of health care services, within six months preceding the effective date of coverage of an insured person;

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

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

5. The definition of preexisting condition provided in subsection 3 of this section does not prohibit an insurer from using an application form designed to elicit the complete health history of an applicant, and, on the basis of the answers on that application, from underwriting in accordance with that insurer's established underwriting standards. Unless otherwise provided in the policy or certificate, a preexisting condition, regardless of whether it is disclosed on the application, need not be covered until the waiting period described in subdivision (2) of subsection 3 of this section expires. No long-term care insurance policy or certificate may exclude or use waivers or riders of any kind to exclude, limit or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions beyond the waiting period described in subdivision (2) of subsection 3 of this section.

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

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

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

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

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

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

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

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

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

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

12. (1) If a long-term care insurance policy issued, delivered, or renewed in this state on or after January 1, 2011, is cancelled for any reason, the insurer shall refund the unearned portion of any premium paid beyond the month in which the cancellation is effective. Any refund shall be returned to the policyholder within twenty days from the date the insurer receives notice of the cancellation. Long-term care insurance policies and certificates shall have a notice prominently printed on the first page or attached thereto stating in substance that the applicant shall be entitled to a refund of the unearned premium if the policy is cancelled for any reason.

(2) The policyholder may notify the insurer of cancellation of such long-term care insurance policy at any time by sending written or electronic notification.

13. No long-term care insurance policy shall increase premium rates, measured annually, in excess of the amount that is actuarially justified based on credible experience, calculated in such a way that results in no cross-state subsidization.